

VIRGINIA

IN THE CIRCUIT COURT OF THE CITY OF ROANOKE

CLERK'S OFFICE U.S. DIST. COURT  
AT ROANOKE VA.  
FILED

MAR 10 2016

JULIA C. DUDLEY, CLERK  
BY: *[Signature]*  
DEPUTY CLERK

CALEB QUESENBERRY

Plaintiff,

V.

Case Number: CL16-27  
7:16-CV-66

SOUTHERN ELEVATOR  
COMPANY, INC., et al,

Defendants.

Upon request of the United States District Court, as stated in its letter and by  
Court Order entered 2-19-16, and filed in this office; the above captioned  
file of the Circuit Court of the City of Roanoke, Virginia has this 10<sup>th</sup>  
day of March, 2016, been (hand delivered)(mailed) to; United States  
District Court for the Western District of Virginia

Delivered (sent) By:

Title:

Date:

*[Signature]*

Deputy Clerk

3-10-16

Received By: (\*)

Title:

Date:

*[Signature]*

*[Signature]*  
Deputy Clerk

3/10/16

\*(If file was to be mailed-this line should reflect when & how mailed.)

This document is to be placed in the Circuit Court Clerk's Office, in the original  
location of transferred file. It will be noted in computer, CMS-hear/disp. screen in  
"remarks". When the original file is returned to this office, the date of return and  
signature of Deputy Clerk receiving the file, will be indicated below and this  
document will be placed inside the file, top, right hand side. The file will again be noted  
in computer, CMS-hear/disp. "remarks" section the date of return.

\_\_\_\_\_  
Date returned

\_\_\_\_\_  
Deputy Clerk



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VIRGINIA

14

IN THE CIRCUIT COURT OF THE CITY OF ROANOKE

CALEB QUESENBERRY

Plaintiff,

V.

Case Number: CL16-27

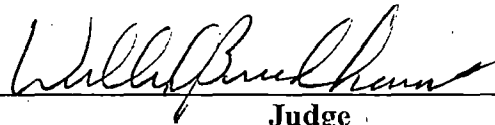
7:16-CV-66

SOUTHERN ELEVATOR  
COMPANY, INC., et al,

Defendants.

The United States District Court for the Western District of Virginia having requested that the original case file in this case be forwarded to that Court, to which this case has been removed under the applicable provisions of federal law, it is **ADJUDGED AND ORDERED** that the Clerk forward and transmit such case file to the Clerk of the United States District Court for the Western District of Virginia, and thereupon strike the matter from the pending docket of this Court, sending copies of this Order to all counsel of record.

Enter: 2/25/16



Judge

A COPY TESTE BRUNDA S. HAMILTON, CLERK  
By  Deputy Clerk

**CIRCUIT COURT**

Received Order From

WDB ☒

CRW ☐

DBC ☐

CND ☐

On **FEB 25 2016**

By

*Janet H. Pollio*  
Deputy Clerk  
City of Roanoke

Regarding the decree or order to which  
this stamp is affixed, I certify that on

*March 10*, 20*16*

I delivered a certified copy to:

*Workowski, M. Helmer & U.S. Dist Ct*  
*Donald H. Miller*  
Deputy Clerk Circuit Court, City of Roanoke

FRITH  
ANDERSON  
& PEAKE <sup>PC</sup>

ATTORNEYS AT LAW

TELEPHONE 540.772.4600  
FACSIMILE 540.772.9167  
MJANOSCHKA@FAPLAWFIRM.COM  
DIRECT DIAL 540.725.3367

29 FRANKLIN ROAD, SW  
ROANOKE, VIRGINIA 24011  
P.O. BOX 1240  
ROANOKE, VIRGINIA 24006-1240

February 19, 2016

Via U.S. Mail

Brenda S. Hamilton  
Roanoke City Circuit Court  
315 W. Church Avenue, SW.  
Roanoke, VA 24016

CIRCUIT COURT

Received & Filed

3:00pm  
FEB 22 2016

By *[Signature]*  
Deputy Clerk  
CITY OF ROANOKE

Re: Caleb Quesenberry v. Southern Elevator Company, Inc. Northern Management Services, Inc. & L. Cruz  
Roanoke City Circuit Court Case No.: CL16-27

Dear Ms. Hamilton:

Enclosed please find Defendant's Notice of Filing and Notice of Removal of Action Under 28 U.S.C. §§1441(a) with regard to the above-referenced matter. By copy of this correspondence to counsel of record, we are providing a copy of the same

We thank you for your time and assistance in this matter. Should you have any questions, please do not hesitate to contact our office.

Sincerely,

FRITH ANDERSON & PEAKE, PC

*[Signature]*  
Macel H. Janoschka

/mae

Enclosures

c: D. Adam McKelvey, Esq. (via Email and U.S. Mail)  
M. Scott Fell, Esq. (via Email and U.S. Mail)

SP1

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF ROANOKE

CALEB QUESENBERRY,

Plaintiff,

v.

SOUTHERN ELEVATOR  
COMPANY, INC.,

NORTHERN MANAGEMENT  
SERVICES, INC.,

and

L. CRUZ,

Defendants.

Case No. CL16-27

CIRCUIT COURT

Received & Filed

FEB 22 2016

By *[Signature]*  
Deputy Clerk  
CITY OF ROANOKE

**NOTICE OF FILING AND NOTICE OF REMOVAL OF  
ACTION UNDER 28 U.S.C. §§1441(a)**

PLEASE TAKE NOTICE that on this date, the defendants, Southern Elevator Company, Inc. and L. Cruz, by counsel, filed a Notice of Removal to the United States District Court for the Western District of Virginia, Roanoke Division. Attached hereto is a true and correct copy of the Notice of Removal.

Please take further notice, that pursuant to 28 U.S.C. §1446(d), the filing of such Notice in the United States District Court, together with the filing of the copy of the Notice with this Court, effects the removal of this action and this Court may proceed no further unless and until the case is remanded.

FRITH  
ANDERSON  
& PEAKE PC  
ATTORNEYS AT LAW  
ROANOKE, VIRGINIA

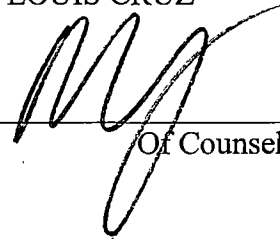




Respectfully submitted,

SOUTHERN ELEVATOR COMPANY, INC.  
and LOUIS CRUZ

By: \_\_\_\_\_



Of Counsel

Sean C. Workowski (VSB No. 36120)  
Macel H. Janoschka (VSB No. 73050)  
FRITH ANDERSON & PEAKE, P.C.  
29 Franklin Road, S.W.

Post Office Box 1240

Roanoke, Virginia 24006-1240

Phone: 540/772-4600

Fax: 540/772-9167

Email: [sworkowski@faplawfirm.com](mailto:sworkowski@faplawfirm.com)

[mjanoschka@faplawfirm.com](mailto:mjanoschka@faplawfirm.com)

*Counsel for Defendants Southern Elevator Company, Inc. and  
Louis Cruz*

FRITH  
ANDERSON  
& PEAKE PC  
ATTORNEYS AT LAW  
ROANOKE, VIRGINIA

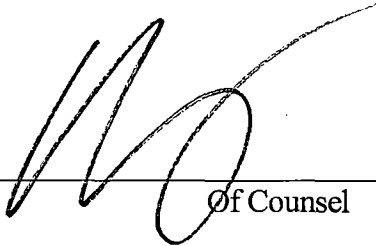


**CERTIFICATE OF SERVICE**

I hereby certify that on the 19 day of February, 2016, I served the foregoing Notice of

Filing Notice of Removal first class mail upon:

D. Adam McKelvey  
Crandall & Katt  
366 Elm Avenue, S.W.  
Roanoke, VA 24016  
*Counsel for Plaintiff*

  
\_\_\_\_\_  
Of Counsel

FRITH  
ANDERSON  
& PEAKE PC  
ATTORNEYS AT LAW  
ROANOKE, VIRGINIA





**Service of Process  
Transmittal**

01/20/2016

CT Log Number 528496785

**TO:** David A Anderson  
Richardson Plowden & Robinson, P.A.  
1600 Marion St  
Columbia, SC 29201-2913

**RE:** Process Served in Virginia

**FOR:** SOUTHERN ELEVATOR COMPANY, INC. (Domestic State: NC)

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

**TITLE OF ACTION:** CALEB QUESENBERRY, Pltf. vs. SOUTHERN ELEVATOR COMPANY, INC., et al., Dfts.  
**DOCUMENT(S) SERVED:** Proof of Service, Summons, Complaint, First Interrogatory  
**COURT/AGENCY:** Roanoke City Circuit Court, VA  
Case # 770CL1600002700  
**NATURE OF ACTION:** Personal Injury - Failure to Maintain Premises in a Safe Condition - August 11, 2014  
**ON WHOM PROCESS WAS SERVED:** C T Corporation System, Glen Allen, VA  
**DATE AND HOUR OF SERVICE:** By Process Server on 01/20/2016 at 08:45  
**JURISDICTION SERVED:** Virginia  
**APPEARANCE OR ANSWER DUE:** Within 21 days after such service  
**ATTORNEY(S) / SENDER(S):** D. Adam McKelvey  
Crandall & Katt  
366 Elm Avenue S.W.  
Roanoke, VA 24016  
540-342-2000  
**ACTION ITEMS:** SOP Papers with Transmittal, via Fed Ex 2 Day , 782206480446  
**SIGNED:** C T Corporation System  
**ADDRESS:** 4701 Cox Road  
Suite 285  
Glen Allen, VA 23060  
**TELEPHONE:** 804-217-7255

Page 1 of 1 / 5H

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.





COMMONWEALTH OF VIRGINIA



ROANOKE CITY CIRCUIT COURT

Civil Division  
315 CHURCH AVENUE, SW  
ROANOKE VA 24016  
(540) 853-6702

Proof of Service

Virginia:  
In the ROANOKE CITY CIRCUIT COURT

Case number: 770CL16000027-00

Service number: 002

Service filed: January 06, 2016

Judge:

Served by: SPECIAL PROCESS SERVER

Style of case: CALEB QUESENBERRY vs SOUTHERN ELEVATOR COMPANY INC

Service on: CT CORPORATION SYSTEM

Attorney: MCKELVEY, D ADAM

REGISTERED AGENT FOR  
SOUTHERN ELEVATOR COMPANY INC  
4701 COX ROAD SUITE 285  
GLEN ALLEN VA 23060

540-342-2000  
Proper attire required in Court Rooms  
NO shorts  
NO halters/tank tops  
NO flip-flop shoes  
NO t-shirts  
NO hats  
NO food, drinks or gum  
NO cell phones in Courthouse

Instructions:

Returns shall be made hereon, showing service of Summons issued Wednesday, January 06, 2016 with a copy of the Complaint filed Wednesday, January 06, 2016 attached.

Hearing date :

Service issued: Wednesday, January 06, 2016

---

For Sheriff Use Only





COMMONWEALTH OF VIRGINIA



ROANOKE CITY CIRCUIT COURT  
Civil Division  
315 CHURCH AVENUE, SW  
ROANOKE VA 24016  
(540) 853-6702

Summons

To: CT CORPORATION SYSTEM  
REGISTERED AGENT FOR  
SOUTHERN ELEVATOR COMPANY INC  
4701 COX ROAD SUITE 285  
GLEN ALLEN VA 23060

Case No. 770CL16000027-00

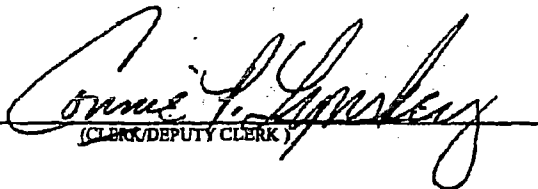
The party upon whom this summons and the attached complaint are served is hereby notified that unless within 21 days after such service, response is made by filing in the clerk's office of this court a pleading in writing, in proper legal form, the allegations and charges may be taken as admitted and the court may enter an order, judgment, or decree against such party either by default or after hearing evidence.

Appearance in person is not required by this summons.

Done in the name of the Commonwealth of Virginia on, Wednesday, January 06, 2016

Clerk of Court: BRENDA S. HAMILTON

by

  
(CLERK/DEPUTY CLERK)

Instructions:

Hearing Official:

Attorney's name: MCKELVEY, D ADAM  
540-342-2000



COMMONWEALTH OF VIRGINIA



ROANOKE CITY CIRCUIT COURT

Civil Division  
315 CHURCH AVENUE, SW  
ROANOKE VA 24016  
(540) 853-6702

Virginia:  
In the ROANOKE CITY CIRCUIT COURT

Proof of Service

Case number: 770CL16000027-00  
Service number: 001  
Service filed: January 06, 2016

Judge:

Served by: SPECIAL PROCESS SERVER

Style of case: CALEB QUESENBERRY vs SOUTHERN ELEVATOR COMPANY INC

Service on: CT CORPORATION SYSTEM  
REGISTERED AGENT FOR  
NORTHERN MANAGEMENT SERVICES  
4701 COX ROAD SUITE 285  
GLEN ALLEN VA 23060

Attorney: MCKELVEY, D ADAM  
540-342-2000

Proper attire required in Court Rooms  
NO shorts  
NO halters/tank tops  
NO flip-flop shoes  
NO t-shirts  
NO hats  
NO food, drinks or gum  
NO cell phones in Courthouse

Instructions:

Returns shall be made hereon, showing service of Summons issued Wednesday, January 06, 2016 with a copy of the Complaint filed Wednesday, January 06, 2016 attached.

Hearing date :

Service issued: Wednesday, January 06, 2016

---

For Sheriff Use Only



**COMMONWEALTH OF VIRGINIA**



**ROANOKE CITY CIRCUIT COURT**

**Civil Division**

**315 CHURCH AVENUE, SW**

**ROANOKE VA 24016**

**(540) 853-6702**

**Summons**

**To: CT CORPORATION SYSTEM  
REGISTERED AGENT FOR  
NORTHERN MANAGEMENT SERVICES  
4701 COX ROAD SUITE 285  
GLEN ALLEN VA 23060**

**Case No. 770CL16000027-00**

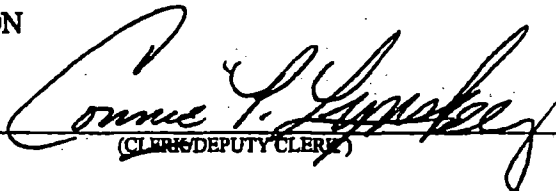
The party upon whom this summons and the attached complaint are served is hereby notified that unless within 21 days after such service, response is made by filing in the clerk's office of this court a pleading in writing, in proper legal form, the allegations and charges may be taken as admitted and the court may enter an order, judgment, or decree against such party either by default or after hearing evidence.

Appearance in person is not required by this summons.

Done in the name of the Commonwealth of Virginia on, Wednesday, January 06, 2016

Clerk of Court: BRENDA S. HAMILTON

by

  
(CLERK/DEPUTY CLERK)

Instructions:

Hearing Official:

Attorney's name: **MCKELVEY, D ADAM  
540-342-2000**



SERVICE OTHER THAN BY VIRGINIA SHERIFF  
COMMONWEALTH OF VIRGINIA  
VA. CODE §§ 8.01-293, 8.01-320, 8.01-325

Case No. 770CL16000027-00

Roanoke City

Circuit Court

Caleb Quisenberry

v. Southern Elevator Company Inc

CT Corporation System 94A Northern Measurment Service 4701 Cox Rd Suite 285 Glen Allen VA 23060

is the name and address of the person upon whom service of the following is to be made:

☒ Summons and Complaint

☐

I, the undersigned, swear/affirm that

1. ☐ I am an official or an employee of an official who is authorized to serve process of the type described in the attached Proof of Service and my title and bailiwick are as follows:

or,

☒ I am a private process server (list name, address and telephone number below).

Damian Spradlin 1990 Alean Rd. VITZ VA 24184 540-529-3592

2. I am not a party to, or otherwise interested in, the subject matter in controversy in this case.  
3. I am 18 years of age or older.  
4. I served, as shown below, the above-named person upon whom service of process was to be made with copies described above.

— Date and time of service: 1-20-16 8:45am

— Place of service: 4701 Cox Rd. Suite 285 Glen Allen VA

STREET ADDRESS, CITY AND STATE

— Method of service:

<input checked="" type="checkbox"/> Personal Service	<input type="checkbox"/> Not Found
<input type="checkbox"/> Being unable to make personal service, a copy was delivered in the following manner:	
<input type="checkbox"/> Delivery to family member (not temporary sojourner or guest) age 16 or older at usual place of abode of person to be served after giving information of its purport. List name, age of recipient, and relation of recipient to party	
<input type="checkbox"/> Posted on front door or such other door as appears to be the main entrance of usual place of abode (other authorized recipient not found).	
<input type="checkbox"/> (Garnishment Summons Only, § 8.01-511) Copy mailed to judgment debtor after serving the garnishee on date of service below unless a different date of mailing is shown.	
DATE OF MAILING	

CIRCUIT COURT

Received & Filed

4:30pm  
JAN 25 2016

Deputy Clerk

CITY OF ROANOKE

1-20-16

DATE

SIGNATURE

Name (Print or Type) Damian Spradlin

State/Commonwealth of Virginia

☒ City ☐ County of Roanoke

Subscribed and sworn to/affirmed before me this day of , 20

by Damian Spradlin

Private Process Server

PRINT NAME OF SIGNATORY

TITLE

1/21/16

TAYLOR MACKENZIE REEDY  
NOTARY PUBLIC  
Commonwealth of Virginia  
Reg. #7595123  
My Commission Expires April 30, 2018

NOTARY PUBLIC (My commission expires

Registration No.

7595123





## Service Authorization CT Corporation System

CT Corporation System ("CT") is registered agent for service of process for numerous corporations and similar entities. CT receives the process only in its capacity as a commercial registered agent. The individuals designated below are employees of CT Corporation System and in receiving the process, do so only on CT's behalf and in CT's capacity as registered agent.

**PLEASE NOTE:** The Code of Virginia §§ 13.1-634 provides in part:

"Registered office and registered agent.

A....

B. The sole duty of the registered agent is to forward to the corporation at its last known address any process, notice or demand that is served on the registered agent."

**As such, neither CT Corporation System, nor its individual employees designated below, have the duty or the ability to respond to any legal process, notice or demand that is served on CT's clients.**

The following natural persons are designated in the office of the registered agent upon whom any process, notice or demand may be served:

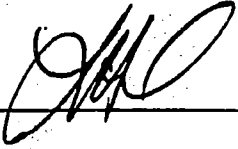
Lisa Uttech

Katie Bush

Teresa Brown

Jabrel Samuel

This authorization does not certify the receipt or acceptance of any specific process.

  
\_\_\_\_\_  
Lisa Uttech  
Corporate Operations Manager  
CT Corporation System

State of Virginia  
County of Henrico

This day personally appeared before me, Lisa Uttech, who name is signed above and who, being first duly sworn, upon her oath, state that the foregoing Affidavit is true to the best of her knowledge and belief.  
Subscribed and sworn before me this 14<sup>th</sup> day of December, 2015.

  
\_\_\_\_\_  
Notary Public

**Teresa Michelle Brown**  
Notary Public, Commonwealth of Virginia  
My Commission Expires August 31, 2017  
Commission ID #288304



SERVICE OTHER THAN BY VIRGINIA SHERIFF  
COMMONWEALTH OF VIRGINIA  
VA. CODE §§ 8.01-293, 8.01-320, 8.01-325

Case No. 7061-600027-00

Roanoke City

Circuit Court

Calhoun Rosenberg

v. Southern Elevator Company, Inc.

CT Corporation System, 8450 Southern Elevator Company, Inc. 4701 Cox Rd Suite 285 Glen Allen VA 23060

is the name and address of the person upon whom service of the following is to be made:

☒ [X] Simmons and Complaint

☐ [ ]

I, the undersigned, swear/affirm that

1. ☐ [ ] I am an official or an employee of an official who is authorized to serve process of the type described in the attached Proof of Service and my title and bailiwick are as follows:

or,

☒ [X] I am a private process server (list name, address and telephone number below).

Damian Spradlin 1990 Alcan Rd Wirtz VA 24184 540-529-3592

2. I am not a party to, or otherwise interested in, the subject matter in controversy in this case.  
3. I am 18 years of age or older.  
4. I served, as shown below, the above-named person upon whom service of process was to be made with copies described above.

- Date and time of service: 1-20-16 845AM  
— Place of service: 4701 Cox Rd Suite 285 Glen Allen VA  
STREET ADDRESS, CITY AND STATE  
— Method of service:

CIRCUIT COURT

Received & Filed

4:30 PM  
JAN 25 2016

Deputy Clerk  
CITY OF ROANOKE

<input checked="" type="checkbox"/> [X] Personal Service	<input type="checkbox"/> [ ] Not Found
<input type="checkbox"/> [ ] Being unable to make personal service, a copy was delivered in the following manner:	
<input type="checkbox"/> [ ] Delivery to family member (not temporary sojourner or guest) age 16 or older at usual place of abode of person to be served after giving information of its purport. List name, age of recipient, and relation of recipient to party	
<input checked="" type="checkbox"/> [X] Posted on front door or such other door as appears to be the main entrance of usual place of abode (other authorized recipient not found).	
<input type="checkbox"/> [ ] (Garnishment Summons Only, § 8.01-511) Copy mailed to judgment debtor after serving the garnishee on date of service below unless a different date of mailing is shown.	
DATE OF MAILING	

1-20-16

DATE

SIGNATURE

Name (Print or Type) Damian Spradlin

State/Commonwealth of Virginia, ☒ [X] City ☐ [ ] County of Roanoke

Subscribed and sworn to/affirmed before me this day of , 20

by Damian Spradlin

Private Process Server

TITLE

PRINT NAME OF SIGNATURE

NOTARY PUBLIC

Commonwealth of Virginia

Reg. #7895189

My Commission Expires April 30, 2018

NOTARY PUBLIC (My commission expires

Registration No. 7595123



## Service Authorization CT Corporation System

CT Corporation System ("CT") is registered agent for service of process for numerous corporations and similar entities. CT receives the process only in its capacity as a commercial registered agent. The individuals designated below are employees of CT Corporation System and in receiving the process, do so only on CT's behalf and in CT's capacity as registered agent.

**PLEASE NOTE:** The Code of Virginia §§ 13.1-634 provides in part:

"Registered office and registered agent.

A....

B. The sole duty of the registered agent is to forward to the corporation at its last known address any process, notice or demand that is served on the registered agent."

*As such, neither CT Corporation System, nor its individual employees designated below, have the duty or the ability to respond to any legal process, notice or demand that is served on CT's clients.*

The following natural persons are designated in the office of the registered agent upon whom any process, notice or demand may be served:

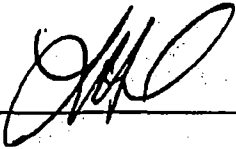
Lisa Uttech

Katie Bush

Teresa Brown

Jabrel Samuel

This authorization does not certify the receipt or acceptance of any specific process.

  
\_\_\_\_\_  
Lisa Uttech  
Corporate Operations Manager  
CT Corporation System

State of Virginia  
County of Henrico

This day personally appeared before me, Lisa Uttech, who name is signed above and who, being first duly sworn, upon her oath, state that the foregoing Affidavit is true to the best of her knowledge and belief.  
Subscribed and sworn before me this 14<sup>th</sup> day of December, 2015.

  
\_\_\_\_\_  
Notary Public

**Teresa Michelle Brown**  
Notary Public, Commonwealth of Virginia  
My Commission Expires August 31, 2017  
Commission ID #288304



VIRGINIA: IN THE ROANOKE CITY CIRCUIT COURT

CALEB QUESENBERRY,

Plaintiff,

v.

SOUTHERN ELEVATOR  
COMPANY, INC.,

NORTHERN MANAGEMENT  
SERVICES, INC.,

&

L. CRUZ,

Defendants.

Case No. CL16-27

COMPLAINT

COMES NOW the plaintiff, CALEB QUESENBERRY ("plaintiff"), by counsel, and moves this Court for judgment against defendants SOUTHERN ELEVATOR COMPANY, INC. ("Southern"), NORTHERN MANAGEMENT SERVICES, INC. ("Northern"), and L. CRUZ ("Cruz") (collectively "defendants"), jointly and severally, on the grounds and in the amounts as hereinafter set forth:

1. At all relevant times hereto, the plaintiff was an employee that worked at the Poff Federal Building ("subject premises") in Roanoke, Virginia, and was a resident and citizen of the Commonwealth of Virginia.
2. At all relevant times hereto, Northern was a corporation organized and existing under the laws of the State of Idaho, with minimum contacts with the Commonwealth of Virginia.





3. At all relevant times hereto, Southern was a corporation organized and existing under the laws of the State of North Carolina, with minimum contacts with the Commonwealth of Virginia.

4. At all relevant times hereto, L. Cruz was, upon information and belief, a citizen and resident of the Commonwealth of Virginia who was employed at all relevant times by Southern and acting within the scope and course of employment for the same, such that he received pay for the work that he did from Southern, and on the date of the subject incident, was working under the dispatch of, and for the business benefit of, Southern.

5. On or about August 11, 2014, the plaintiff was at the subject location and was using an elevator to move about the Poff Building, when said elevator malfunctioned, moved abruptly, and caused the plaintiff physical injury.

6. At the time and place aforesaid, Northern was under a contract with the General Services Administration, an agency of the federal government, to provide maintenance and repair services for the Poff Building, including the elevators.

7. At the time and place aforesaid, Northern had entered into a contract with Southern for the maintenance and repair of the elevators at the subject location.

8. On August 11, 2014 at approximately 10:50 a.m. the elevator on which the plaintiff was located malfunctioned, and Cruz was dispatched on behalf of Southern to service said elevator.

9. The fault code displayed at the 10:50 a.m. service call was a "QPRAM Comm. Failure/warn" code which is indicative of, among other things, a broken circuit board.



10. Cruz ran tests that checked for other failures, all of which were, upon information and belief, negative, and placed the elevator back in service.

11. At the time of the service call, based upon the troubleshooting guide for the subject elevator and/or Cruz's specialized training, education and experience, Cruz knew, or should have known, that the "QPRAM Comm. Failure/warn" code could indicate a broken circuit board.

12. In spite of the abovementioned knowledge, the presence of at least three other operable elevators in the vicinity and several others building wide, and knowledge that there was no way for anyone to test whether the circuit board was in fact broken on site, Cruz placed the elevator back in service without replacing the circuit board, or taking the elevator out of service.

13. At approximately 1:30 pm on the same date, the plaintiff entered the elevator, and while located therein and in transit, the elevator dropped at a high rate of speed for a considerable distance, actually and proximately causing the plaintiff's physical injuries.

14. Upon inspection of the elevator after the plaintiff's injury, the "QPRAM Comm. Failure/warn code" was displayed, and there was a tripped speed governor switch, which is indicative of a free fall. The combination of these two findings, and the subsequent testing of the circuit board, which should have been done as part of the first service call, establish that the circuit board was in fact broken.

15. The circuit board on this elevator controls and governs the speed of the elevator when traveling, among other things. The broken circuit board on the subject



elevator at the time of the plaintiff's injury is the actual and proximate cause of the elevator's malfunction, and the plaintiff's injuries.

16. At all relevant times hereto, Northern, in order to obtain greater profits from its abovementioned contract with the GSA, refused to authorize adequate elevator inspections, repairs and servicing such that problems like the one mentioned herein occurred. Northern is in the business of building maintenance and exercised such a significant degree of control over Southern and Cruz, and was thus their employer.

17. Northern, by contract with the GSA, was obligated to keep the elevator on which the plaintiff was injured in safe working order. Further, the plaintiff, as an employee of the federal government who worked in the Poff Building, is clearly a foreseeable beneficiary of the aforesaid contract.

18. The defendants had an actual, assumed and/or vicarious duty to use ordinary care in the maintenance and repair of the aforesaid elevator on which the plaintiff was injured.

19. Notwithstanding their aforesaid duties, the defendants negligently failed to maintain and repair the elevator after the first malfunction, for the reasons stated herein, incorporated by reference, actually and proximately causing the plaintiff's injuries.

20. The conduct of Cruz in spite of his specialized training and knowledge, constituted willful and wanton conduct such that punitive damages are appropriate, for the reasons stated herein, and specifically do to the fact that the troubleshooting guide suggested the replacement and testing of the circuit board as a solution to the fault code displayed prior to the plaintiff's injury.



21. Northern and Southern are vicariously liable for the conduct of Cruz, due to the fact that they are both his employers, for the reasons stated herein.

22. As an actual and proximate result of the negligent conduct alleged herein, the plaintiff was caused to suffer severe injury, pain, mental anguish, inconvenience, and to incur lost time from work as a result of the injuries, and medical expenses in an effort to be cured of the aforesaid injuries.

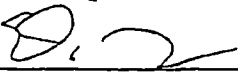
23. The plaintiff did not fail to mitigate his damages, did not assume the risk of injury, nor was he contributorily negligent.

24. A trial by jury is requested.

WHEREFORE the plaintiff, by counsel, moves this Court for judgment against the defendants, jointly and severally, in the amount of five hundred thousand dollars in compensatory damages, against L. Cruz in the amount of three hundred fifty thousand dollars in punitive damages, pre-judgment interest, post judgment interest, and costs expended.

Respectfully submitted,

**CALEB QUESENBERRY**

By:   
of Counsel

D. Adam McKelvey, Esquire (Va. State Bar No. 75174)  
CRANDALL & KATT  
Attorneys and Counselors at Law  
366 Elm Avenue, S.W.  
Roanoke, Virginia 24016  
Telephone: (540) 342-2000  
Facsimile: (540) 345-3527  
dmckelvey@crandalllaw.com

*Counsel for plaintiff*





VIRGINIA: IN THE ROANOKE CITY CIRCUIT COURT

CALEB QUESENBERRY,

Plaintiff,

v.

SOUTHERN ELEVATOR  
COMPANY, INC.,

NORTHERN MANAGEMENT  
SERVICES, INC.,

&

L. CRUZ,

Defendants.

Case No. CL 16-27

PLAINTIFF'S FIRST INTERROGATORY TO DEFENDANTS

1. Please state the full legal name, home address and relationship to you of the  
"L. Cruz" listed in the Complaint.

Response:

Respectfully submitted,

CALEB QUESENBERRY

By: SD. [Signature]

of Counsel

D. Adam McKelvey, Esquire (Va. State Bar No. 75174)  
CRANDALL & KATT  
Attorneys and Counselors at Law  
366 Elm Avenue, S.W.  
Roanoke, Virginia 24016  
Telephone: (540) 342-2000  
Facsimile: (540) 345-3527  
dmckelvey@crandalllaw.com

*Counsel for plaintiff*



FRITH  
ANDERSON  
& PEAKE PC

ATTORNEYS AT LAW

TELEPHONE 540.772.4600  
FACSIMILE 540.772.9167  
MJANOSCHKA@FAPLAWFIRM.COM  
DIRECT DIAL 540.725.3367

29 FRANKLIN ROAD, SW  
ROANOKE, VIRGINIA 24011  
P.O. BOX 1240  
ROANOKE, VIRGINIA 24006-1240

February 10, 2016

VIA HAND DELIVERY

Brenda S. Hamilton  
Roanoke City Circuit Court  
315 W. Church Avenue, SW.  
Roanoke, VA 24016

Re: Caleb Ouesenberry v. Southern Elevator Company, Inc. Northern Management  
Services, Inc. & L. Cruz  
Roanoke City Circuit Court Case No.: CL16-27

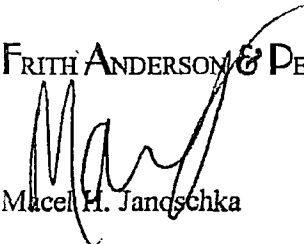
Dear Ms. Hamilton:

Enclosed for filing, please find Southern Elevator Company, Inc. and Louis Cruz's Responsive Pleading to Plaintiff's Complaint in the above-referenced matter. We are also enclosing an extra copy of the Responsive Pleading which we request you stamp "FILED" and return in the stamped, self-addressed envelope provided for your convenience. By copy of this correspondence to counsel of record, we are providing a copy of the same

We thank you for your time and assistance in this matter. Should you have any questions, please do not hesitate to contact our office.

Sincerely,

FRITH ANDERSON & PEAKE, PC

  
Macell H. Janoschka

/mae

Enclosures

c: D. Adam McKelvey, Esq. (via email and Hand Delivery)



VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF ROANOKE

CALEB QUESENBERRY,

Plaintiff,

v.

Case No. CL16-27

SOUTHERN ELEVATOR  
COMPANY, INC.,

NORTHERN MANAGEMENT  
SERVICES, INC.,

and

L. CRUZ,

Defendants.

**RESPONSIVE PLEADING**

COME NOW, the defendants, Southern Elevator Company, Inc. and L. Cruz (hereinafter "Louis Cruz"), by counsel, and file this their Responsive Pleading to the Plaintiff's Complaint, and in support thereof, state as follows:

**DEMURRER**

COMES NOW, the defendant, Louis Cruz, by counsel, and demurs to the claim for punitive damages contained in Plaintiff's Complaint, on the ground that the factual allegations, even when taken as true, are not sufficient to establish that Defendant Cruz's conduct was willful and wanton and/or was in conscious disregard of the rights and safety of others, and specifically, the Plaintiff.

Wherefore, based upon the foregoing, Louis Cruz, by counsel, respectfully requests that the plaintiff's claim for punitive damages be dismissed.

FRITH  
ANDERSON  
& PEAKE PC  
ATTORNEYS AT LAW  
ROANOKE, VIRGINIA



## ANSWER

COME NOW, the defendants, Southern Elevator Company, Inc. and Louis Cruz, by counsel, and file this their Answer in response to Plaintiff's Complaint herein, and in support thereof states as follows:

1. That in response to paragraph 1 of the Plaintiff's Complaint, Defendants Southern Elevator Company, Inc. and Louis Cruz are without sufficient knowledge to admit or deny the allegations contained in paragraph 1 of the Plaintiff's Complaint.

2. That in response to paragraph 2 of the Plaintiff's Complaint, Defendants Southern Elevator Company, Inc. and Louis Cruz are without sufficient knowledge to admit or deny the allegations contained in paragraph 2 of the Plaintiff's Complaint.

3. That Defendants Southern Elevator Company, Inc. and Louis Cruz admit the allegations contained in paragraph 3 of the Plaintiff's Complaint.

4. That Defendants Southern Elevator Company, Inc. and Louis Cruz admit the allegations contained in paragraph 4 of the Plaintiff's Complaint.

5. That Defendants Southern Elevator Company, Inc. and Louis Cruz deny the allegations contained in paragraph 5 of the Plaintiff's Complaint.

6. That Defendants Southern Elevator Company, Inc. and Louis Cruz admit the allegations contained in paragraph 6 of the Plaintiff's Complaint.

7. That Defendants Southern Elevator Company, Inc. and Louis Cruz admit the allegations contained in paragraph 7 of the Plaintiff's Complaint.

8. That with regard to the allegations contained within paragraph 8 of the Plaintiff's complaint, Defendants Southern Elevator Company, Inc. and Louis Cruz admit only that Louis

FRITH  
ANDERSON  
& PEAKE PC  
ATTORNEYS AT LAW  
ROANOKE, VIRGINIA





Cruz was dispatched to service the elevator on August 11, 2014. All other allegations contained in paragraph 8 of the Plaintiff's Complaint are denied.

9. That Defendants Southern Elevator Company, Inc. and Louis Cruz deny the allegations contained in paragraph 9 of the Plaintiff's Complaint.

10. With regard to the allegations contained in paragraph 10 of the Plaintiff's Complaint, Defendants Southern Elevator Company, Inc. and Louis Cruz admit only that Mr. Cruz ran tests on the elevator and, after finding no problems with the elevator, returned it to service. All other allegations contained in paragraph 10 of the Plaintiff's Complaint are denied.

11. That Defendants Southern Elevator Company, Inc. and Louis Cruz deny the allegations contained in paragraph 11 of the Plaintiff's Complaint.

12. That Defendants Southern Elevator Company, Inc. and Louis Cruz deny the allegations contained in paragraph 12 of the Plaintiff's Complaint.

13. That Defendants Southern Elevator Company, Inc. and Louis Cruz deny the allegations contained in paragraph 13 of the Plaintiff's Complaint.

14. That Defendants Southern Elevator Company, Inc. and Louis Cruz deny the allegations contained in paragraph 14 of the Plaintiff's Complaint.

15. That Defendants Southern Elevator Company, Inc. and Louis Cruz deny the allegations contained in paragraph 15 of the Plaintiff's Complaint.

16. The allegations in paragraph 16 are not directed to these defendants and thus a response to these allegations is not required by these defendants. To the extent a response is required, these defendants are without sufficient information to admit or deny the allegations in paragraph 16 and thus those allegations are denied.

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ANDERSON  
& PEAKE PC  
ATTORNEYS AT LAW  
ROANOKE, VIRGINIA



17. The allegations in paragraph 17 are not directed to these defendants and thus a response to these allegations is not required by these defendants. To the extent a response is required, these defendants are without sufficient information to admit or deny the allegations in paragraph 17 and thus those allegations are denied.

18. That the allegations in paragraph 18 of the Plaintiff's Complaint are mere allegations of legal duties to which a response is not required. To the extent a response is required, the allegations are denied.

19. That Defendants Southern Elevator Company, Inc. and Louis Cruz deny the allegations contained in paragraph 19 of the Plaintiff's Complaint.

20. That Defendants Southern Elevator Company, Inc. and Louis Cruz deny the allegations contained in paragraph 20 of the Plaintiff's Complaint.

21. With regard to the allegations contained in paragraph 21 of the Plaintiff's Complaint, that Defendants Southern Elevator Company, Inc. and Louis Cruz admit that Southern Elevator was his employer at the time of the alleged accident and that Southern Elevator is vicariously liable for the conduct of Cruz with regard to the repair of the elevator. All other allegations contained within paragraph 21 of the Plaintiff's Complaint are denied.

22. That Defendants Southern Elevator Company, Inc. and Louis Cruz deny the allegations contained within paragraph 22 of the Plaintiff's Complaint and call upon the Plaintiff for strict proof of each and every item of alleged injury and damage.

23. That Defendants Southern Elevator Company, Inc. and Louis Cruz are without sufficient knowledge to admit or deny the allegations contained in paragraph 23 of the Plaintiff's Complaint. To the extent a response is required, the allegations are denied. Defendants expressly

FRITH  
ANDERSON  
& PEAKE PC  
ATTORNEYS AT LAW  
ROANOKE, VIRGINIA



reserve the right to rely on any of these affirmative defenses should they be supported by the evidence.

24. That Defendants Southern Elevator Company, Inc. and Louis Cruz deny being liable to the Plaintiff for the amount alleged in the Complaint or for any other amount whatsoever.

25. That Defendants Southern Elevator Company, Inc. and Louis Cruz deny breaching any legal duty owed to the Plaintiff.

26. That Defendants Southern Elevator Company, Inc. and Louis Cruz reserve the right to later assert any affirmative defenses supported by the evidence.

27. That the Complaint fails to state grounds sufficient for an award for punitive damages. The Demurrer set forth above is incorporated herein by reference.

28. That all allegations in the Complaint not expressly admitted herein are denied.

29. A trial by jury is demanded.

Respectfully submitted,

SOUTHERN ELEVATOR COMPANY, INC.  
AND LOUIS CRUZ

By: \_\_\_\_\_

Of Counsel

Sean C. Workowski (VSB No. 36120)  
Macel H. Janoschka (VSB No. 73050)  
FRITH ANDERSON & PEAKE, P.C.  
29 Franklin Road, S.W.  
Post Office Box 1240  
Roanoke, Virginia 24006-1240  
Phone: 540/772-4600  
Fax: 540/772-9167  
Email: [sworkowski@faplawfirm.com](mailto:sworkowski@faplawfirm.com)  
[mjanoschka@faplawfirm.com](mailto:mjanoschka@faplawfirm.com)  
*Counsel for Defendant Southern Elevator Company, Inc. and  
Louis Cruz*

FRITH  
ANDERSON  
& PEAKE PC  
ATTORNEYS AT LAW  
ROANOKE, VIRGINIA

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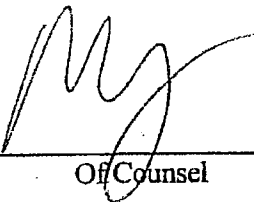


**CERTIFICATE OF SERVICE**

I hereby certify that on the 18<sup>th</sup> day of February, 2016, I served the foregoing Responsive

Pleading via email and hand delivery upon:

D. Adam McKelvey  
Crandall & Katt  
366 Elm Avenue, S.W.  
Roanoke, VA 24016  
*Counsel for Plaintiff*

  
\_\_\_\_\_  
Of Counsel

FRITH  
ANDERSON  
& PEAKE PC  
ATTORNEYS AT LAW  
ROANOKE, VIRGINIA





**M. Scott Fell**

Please Reply: Western Virginia Office  
Direct Dial: (540) 776-3583  
E-mail: [scott.fell@kpmllaw.com](mailto:scott.fell@kpmllaw.com)  
Website: [www.kpmllaw.com](http://www.kpmllaw.com)  
File No.: 1673



February 18, 2016

CIRCUIT COURT

Received & Filed

FEB 18 2016

By   
Deputy Clerk  
CITY OF ROANOKE

**HAND DELIVERED**

Brenda S. Hamilton, Clerk  
Roanoke City Circuit Court  
Post Office Box 2610  
Roanoke, Virginia 24010-2610

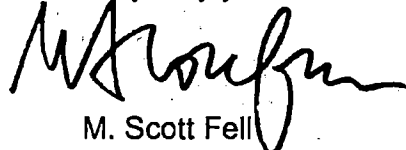
RE: Caleb Quesenberry v. Southern Elevator Company,  
Inc. and Northern Management Services, Inc. and L.  
Cruz  
Court File No.: CL16-27

Dear Ms. Hamilton:

Please find enclosed Northern Management Services,  
Inc.'s Demurrer and Answer for filing in the above referenced  
matter.

If you have any questions, please do not hesitate to  
contact me.

Very truly yours,

  
M. Scott Fell

MSF/chc

cc: D. Adam McKelvey, Esquire  
Macel H. Janoschka, Esquire

**CENTRAL VIRGINIA**

901 Moorefield Park Drive  
Suite 200  
Richmond, Virginia 23220  
p 804.320.6300  
f 804.320.6312

**NORTHERN VIRGINIA**

3950 University Drive  
Suite 204  
Fairfax, Virginia 22030  
p 703.691.3331  
f 703.691.3332

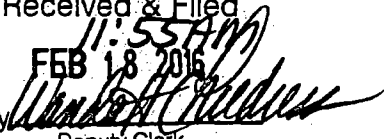
**EASTERN VIRGINIA**

555 East Main Street  
Suite 1200  
Norfolk, Virginia 23510  
p 757.623.4500  
f 757.623.5700

**WESTERN VIRGINIA**

2840 Electric Road  
Suite 111  
Roanoke, Virginia 24018  
p 540.776.3583  
f 540.776.1542



11:55 AM  
FEB 18 2016By   
Deputy Clerk  
CITY OF ROANOKE

VIRGINIA:

## IN THE CIRCUIT COURT FOR THE CITY OF ROANOKE

CALEB QUESENBERRY

Plaintiff,

v.

Case No.: CL16-27

SOUTHERN ELEVATOR COMPANY, INC.,

NORTHERN MANAGEMENT SERVICES, INC.,

AND

L. CRUZ,

Defendants.

**DEMURRER TO CLAIM FOR PUNITIVE DAMAGES**

COMES NOW Defendant, Northern Management Services, Inc., by counsel, and demurs to Plaintiff's claim for punitive damages as the Complaint fails to state facts upon which punitive damages may be granted. As support for this demurrer, Defendant states the following:

1. "In order to support an award of punitive damages in a personal injury case, the evidence must establish that the defendant's conduct was so willful or wanton as to show a conscious disregard for the rights of others." *Huffman v. Love*, 245 Va. 311, 313-14 (1993).
2. "Willful and wanton negligence, unlike gross or ordinary negligence, requires an actual or constructive consciousness that injury will result from the act done or omitted." *Alfonso v. Robinson*, 257 Va. 540, 545 (1999).
3. "Negligence conveys the idea of heedlessness, inattention, inadvertence; willfulness and wantonness convey the idea of purpose or design, actual or constructive." *Thomas v. Snow*, 162 Va. 654, 660 (1934).
4. The Complaint alleges that the broken circuit board is the actual and proximate cause of the elevator's malfunction and plaintiff's injuries (*Pl. Compl.* ¶15) and that at the time



of Cruz' service call, based upon the troubleshooting guide and his training and experience "Cruz knew, or should have known, that the 'QPRAM Comm. Failure/warn' code could indicate a broken circuit board. *Pl. Compl.* ¶ 11.

5. However, the Complaint also states that "QPRAM Comm. Failure/warn" code can indicate "*among other things*, a broken circuit board" (Emphasis added, *Pl. Compl.* ¶ 9) and that "Cruz ran tests that checked for other failures, all of which were, upon information and belief, negative" (*Pl. Compl.* ¶ 10).

6. The Complaint acknowledges that a number of problems could be indicated by the same code and that Cruz did perform various checks of the elevator prior to placing the elevator back in service.

5. The Complaint fails to state facts which rise above ordinary negligence, for which punitive damages are not available.

WHEREFORE, Defendant, Northern Management Services, Inc., prays that this Court sustain its demurrer and dismiss Plaintiff's claim for punitive damages.

#### ANSWER

Comes now the defendant Northern Management Services, Inc., by counsel without waiving its Demurrer and files this as its Answer.

1. This defendant lacks sufficient knowledge to admit or deny the allegations in paragraph 1 of the plaintiff's Complaint.

2. Upon information and belief, the allegations in paragraph 2 of the plaintiff's Complaint are admitted.

3. The allegations in paragraph 3 of the plaintiff's Complaint do not pertain to this defendant.



4. The allegations in paragraph 4 of the plaintiff's Complaint do not pertain to this defendant.

5. The allegations in paragraph 5 of the plaintiff's Complaint are denied and strict proof is demanded.

6. Upon information and belief, the allegations in paragraph 6 of the plaintiff's Complaint are admitted. This defendant reserves the right to amend this and other responses as may be necessary as the case proceeds and more information becomes available.

7. Upon information and belief the allegations in paragraph 7 of the plaintiff's Complaint are admitted.

8. The specific allegations in paragraphs 8, 9, 10, 11, 12, 13, 14 and 15 do not pertain to this defendant, and/or contain conclusions of law and/or exceed the scope of this defendant's current knowledge of the incident. Any allegations of negligence as they may pertain to this defendant are denied.

9. The allegations in paragraph 16 of the plaintiff's Complaint are denied.

10. Paragraphs 17 and 18 of the plaintiff's Complaint contain conclusion of law and no response is required. This defendant denies it was negligent in any manner and denies it breached any duty owed the plaintiff.

11. This defendant denies any allegations in paragraph 19 of the plaintiff's Complaint that pertain to it.

12. The allegations in paragraph 20 of the plaintiff's Complaint do not pertain to this defendant. Any and all allegations of negligence against this defendant are denied.

13. The allegations in Paragraphs 21, 22 and 23, as they pertain to this defendant, are denied.





14. Paragraph 24 is acknowledged.

15. This defendant denies being liable to the plaintiff for the amount alleged in the Complaint or for any other amount whatsoever.

16. This defendant denies breaching any legal duty owed to the plaintiff.

17. This defendant reserves the right to assert any affirmative defenses supported by the evidence. These defenses may include contributory negligence, assumption of the risk, failure to mitigate damages, sudden emergency and unavoidable accident. This defendant may also assert that the plaintiff's damages, if proved, were caused by an entity or person not under the control of this defendant.

18. Any allegations not expressly admitted are denied.

19. Trial by jury is demanded.

WHEREFORE, Defendant, Northern Management Services, Inc., prays that this Court dismiss the Complaint filed by Plaintiff and enter judgment in favor of this Defendant, allowing its attorney's fees and costs in this behalf expended.

**NORTHERN MANAGEMENT  
SERVICES, INC.**

By: 

Counsel

M. Scott Fell, Esquire  
VSB No.: 30443  
Lindsey D. Hunt, Esquire  
VSB No.: 82040  
KALBAUGH, PFUND & MESSERSMITH, PC  
2840 Electric Road, Suite 111  
Roanoke, Virginia 24018



Phone: (540) 776-3583

Fax: (540) 776-1542

**CERTIFICATE**

I hereby certify that a true and accurate copy of the foregoing Demurrer and Answer was mailed first class, postage pre-paid, on this 18 day of February, 2016 to D. Adam McKelvey, Esquire, Crandall & Katt, 366 Elm Avenue, S.W., Roanoke, Virginia 24016 and Macel H. Janoschka, Esquire, Frith, Anderson & Peake, P.C., Post Office Box 1240, Roanoke, Virginia 24006.



M. Scott Fell



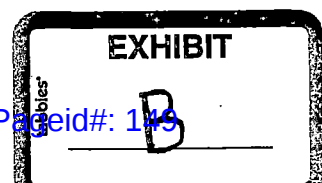
**DEFENDANT NORTHERN MANAGEMENT SERVICES, INC.'S**  
**CONSENT TO REMOVAL**

Northern Management Services, Inc. hereby joins in and consents to the removal of the action styled *Caleb Quesenberry v. Southern Elevator Company, Inc., Northern Management Services, Inc. & L. Cruz*, from the Circuit Court of the City of Roanoke, where it is pending as Case No. CL16-27, to the United States District Court for the Western District of Virginia, Roanoke Division.

Northern Management Services, Inc.

By:           /s/ M. Scott Fell, Esq.          

Counsel for Northern Management  
Services, Inc.



SFA

S

2-22-16

VIRGINIA:

IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

CALEB QUESENBERRY,

Plaintiff,

v.

SOUTHERN ELEVATOR  
COMPANY, INC.,

NORTHERN MANAGEMENT  
SERVICES, INC.,

and

L. CRUZ,

Defendants.

Case No. CL16-27

**NOTICE OF REMOVAL**

COME NOW, the defendants, Southern Elevator Company, Inc. and L. Cruz, (hereinafter "Louis Cruz"), by counsel, pursuant to 28 U.S.C. §§ 1441 and 1446, and file this Notice of Removal. The grounds for removal are as follows:

1. Plaintiff filed his Complaint in the Circuit Court of the City of Roanoke, Virginia, on January 6, 2016, styled *Caleb Quesenberry v. Southern Elevator Company, Inc., Northern Management Services, Inc. & L. Cruz*, Case No. CL16-27, asserting claims against the defendants for negligence.

2. Southern Elevator Company, Inc. was served with the Complaint through its registered agent CT Corporation System on January 20, 2016.

FRITH  
ANDERSON  
& PEAKE PC  
ATTORNEYS AT LAW  
ROANOKE, VIRGINIA





3. Northern Management Services Inc. was served with the Complaint through its registered agent CT Corporation System on January 20, 2016.

4. To date, defendant Louis Cruz has not been served with the Complaint.

5. A copy of the Complaint and Plaintiff's First Interrogatory to Defendants, which were the only pleadings served on the Defendants, all process and the Responsive Pleadings of Southern Elevator Company, Inc., Louis Cruz, and Northern Management Services, Inc. are attached hereto as **Exhibit A**.

6. This Notice of Removal is timely, as it is filed within thirty (30) days after the Defendants were served with the Plaintiff's Complaint pursuant to 28 U.S.C. § 1446(b).

7. The Defendants have mailed Plaintiff's counsel written notice of this Notice of Removal, including a copy of the notice.

8. All defendants have consented in writing to the removal. Northern Management Services, Inc.'s written consent is attached as **Exhibit B**.

9. The United States District Court for the Western District of Virginia, Roanoke Division, is the District Court having jurisdiction over the place where the state court action is pending.

10. A copy of this Notice of Removal is being filed with the Clerk for the Circuit Court for the City of Roanoke as required by 28 U.S.C. §1446(d), and is being served upon counsel of record for the Plaintiff.

#### ORIGINAL JURISDICTION

11. The United States District Court for the Western District of Virginia, Roanoke Division, has subject matter jurisdiction over this case pursuant to 28 U.S.C. §1332.

12. Plaintiff, Caleb Quesenberry, is a citizen of the Commonwealth of Virginia.



13. Defendant, Southern Elevator Company, Inc., is a North Carolina Corporation with its principal place of business in Greensboro, North Carolina. Therefore, Southern Elevator Company, Inc. is a citizen of the state of North Carolina.

14. Defendant, Northern Management Services, Inc., is an Idaho Corporation with its principal place of business in Sandpoint, Idaho. Therefore, Northern Management Services, Inc. is a citizen of the state of Idaho.

15. Defendant, Louis Cruz, is a natural person who is a resident and citizen of the Commonwealth of Virginia.

16. It is the contention of Southern Elevator Company, Inc. and Louis Cruz that Mr. Cruz has been fraudulently joined with the express purpose of defeating the Court's jurisdiction and that no legal claim cognizable in the Commonwealth of Virginia lies against Mr. Cruz.

17. The initial pleadings indicate that the amount in controversy, \$500,000, exceeds the jurisdictional requirement.

WHEREFORE, for the reasons set forth above, Southern Elevator Company, Inc. and Louis Cruz, request that Plaintiff's action be removed from the Circuit Court of the City of Roanoke, Virginia, to this Court.

Respectfully submitted,

SOUTHERN ELEVATOR COMPANY, INC.,  
and LOUIS CRUZ

By: /s/ Macel H. Janoschka  
Of Counsel

FRITH  
ANDERSON  
& PEAKE PC  
ATTORNEYS AT LAW  
ROANOKE, VIRGINIA



Sean C. Workowski (VSB No. 36120)  
Macel H. Janoschka (VSB No. 73050)  
FRITH ANDERSON & PEAKE, P.C.  
29 Franklin Road, S.W.  
Post Office Box 1240  
Roanoke, Virginia 24006-1240  
Phone: 540/772-4600  
Fax: 540/772-9167  
Email: [sworkowski@faplawfirm.com](mailto:sworkowski@faplawfirm.com)  
[mjanoschka@faplawfirm.com](mailto:mjanoschka@faplawfirm.com)  
*Counsel for Defendants Southern Elevator Company, Inc.,  
and Louis Cruz*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 19th day of February, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

D. Adam McKelvey  
Crandall & Katt  
366 Elm Avenue, S.W.  
Roanoke, VA 24016  
*Counsel for Plaintiff*

By: /s/ Macel H. Janoschka  
Of Counsel

FRITH  
ANDERSON  
& PEAKE PC  
ATTORNEYS AT LAW  
ROANOKE, VIRGINIA



**M. Scott Fell**

Please Reply: Western Virginia Office  
Direct Dial: (540) 776-3583  
E-mail: [scott.fell@kpmlaw.com](mailto:scott.fell@kpmlaw.com)  
Website: [www.kpmlaw.com](http://www.kpmlaw.com)  
File No.: 1673



February 18, 2016

CIRCUIT COURT

Received & Filed

11:53 AM  
FEB 18 2016

By   
Deputy Clerk  
CITY OF ROANOKE

**HAND DELIVERED**

Brenda S. Hamilton, Clerk  
Roanoke City Circuit Court  
Post Office Box 2610  
Roanoke, Virginia 24010-2610

**CENTRAL VIRGINIA**

901 Moorefield Park Drive  
Suite 200  
Richmond, Virginia 23236  
p 804.320.6300  
f 804.320.6312

RE: Caleb Quesenberry v. Southern Elevator Company,  
Inc. and Northern Management Services, Inc. and L.  
Cruz  
Court File No.: CL16-27

Dear Ms. Hamilton:

Please find enclosed Northern Management Services,  
Inc.'s Demurrer and Answer for filing in the above referenced  
matter.

If you have any questions, please do not hesitate to  
contact me.

Very truly yours,

  
M. Scott Fell

**EASTERN VIRGINIA**

555 East Main Street  
Suite 1200  
Norfolk, Virginia 23510  
p 757.623.4500  
f 757.623.5700

MSF/chc

cc: D. Adam McKelvey, Esquire  
Macel H. Janoschka, Esquire

**WESTERN VIRGINIA**

2840 Electric Road  
Suite 111  
Roanoke, Virginia 24018  
p 540.776.3583  
f 540.776.1542





11:55 AM  
FEB 18 2016

By

Deputy Clerk

CITY OF ROANOKE

VIRGINIA:

## IN THE CIRCUIT COURT FOR THE CITY OF ROANOKE

CALEB QUESENBERRY

Plaintiff,

v.

Case No.: CL16-27

SOUTHERN ELEVATOR COMPANY, INC.,

NORTHERN MANAGEMENT SERVICES, INC.,

AND

L. CRUZ,

Defendants.

DEMURRER TO CLAIM FOR PUNITIVE DAMAGES

COMES NOW Defendant, Northern Management Services, Inc., by counsel, and demurs to Plaintiff's claim for punitive damages as the Complaint fails to state facts upon which punitive damages may be granted. As support for this demurrer, Defendant states the following:

1. "In order to support an award of punitive damages in a personal injury case, the evidence must establish that the defendant's conduct was so willful or wanton as to show a conscious disregard for the rights of others." *Huffman v. Love*, 245 Va. 311, 313-14 (1993).
2. "Willful and wanton negligence, unlike gross or ordinary negligence, requires an actual or constructive consciousness that injury will result from the act done or omitted." *Alfonso v. Robinson*, 257 Va. 540, 545 (1999).
3. "Negligence conveys the idea of heedlessness, inattention, inadvertence; willfulness and wantonness convey the idea of purpose or design, actual or constructive." *Thomas v. Snow*, 162 Va. 654, 660 (1934).
4. The Complaint alleges that the broken circuit board is the actual and proximate cause of the elevator's malfunction and plaintiff's injuries (*Pl. Compl.* ¶15) and that at the time



of Cruz' service call, based upon the troubleshooting guide and his training and experience "Cruz knew, or should have known, that the 'QPRAM Comm. Failure/warn' code could indicate a broken circuit board. *Pl. Compl.* ¶ 11.

5. However, the Complaint also states that "QPRAM Comm. Failure/warn" code can indicate "*among other things*, a broken circuit board" (Emphasis added, *Pl. Compl.* ¶ 9) and that "Cruz ran tests that checked for other failures, all of which were, upon information and belief, negative" (*Pl. Compl.* ¶ 10).

6. The Complaint acknowledges that a number of problems could be indicated by the same code and that Cruz did perform various checks of the elevator prior to placing the elevator back in service.

5. The Complaint fails to state facts which rise above ordinary negligence, for which punitive damages are not available.

WHEREFORE, Defendant, Northern Management Services, Inc., prays that this Court sustain its demurrer and dismiss Plaintiff's claim for punitive damages.

### **ANSWER**

Comes now the defendant Northern Management Services, Inc., by counsel without waiving its Demurrer and files this as its Answer.

1. This defendant lacks sufficient knowledge to admit or deny the allegations in paragraph 1 of the plaintiff's Complaint.

2. Upon information and belief, the allegations in paragraph 2 of the plaintiff's Complaint are admitted.

3. The allegations in paragraph 3 of the plaintiff's Complaint do not pertain to this defendant.



4. The allegations in paragraph 4 of the plaintiff's Complaint do not pertain to this defendant.

5. The allegations in paragraph 5 of the plaintiff's Complaint are denied and strict proof is demanded.

6. Upon information and belief, the allegations in paragraph 6 of the plaintiff's Complaint are admitted. This defendant reserves the right to amend this and other responses as may be necessary as the case proceeds and more information becomes available.

7. Upon information and belief the allegations in paragraph 7 of the plaintiff's Complaint are admitted.

8. The specific allegations in paragraphs 8, 9, 10, 11, 12, 13, 14 and 15 do not pertain to this defendant, and/or contain conclusions of law and/or exceed the scope of this defendant's current knowledge of the incident. Any allegations of negligence as they may pertain to this defendant are denied.

9. The allegations in paragraph 16 of the plaintiff's Complaint are denied.

10. Paragraphs 17 and 18 of the plaintiff's Complaint contain conclusion of law and no response is required. This defendant denies it was negligent in any manner and denies it breached any duty owed the plaintiff.

11. This defendant denies any allegations in paragraph 19 of the plaintiff's Complaint that pertain to it.

12. The allegations in paragraph 20 of the plaintiff's Complaint do not pertain to this defendant. Any and all allegations of negligence against this defendant are denied.

13. The allegations in Paragraphs 21, 22 and 23, as they pertain to this defendant, are denied.



14. Paragraph 24 is acknowledged.

15. This defendant denies being liable to the plaintiff for the amount alleged in the Complaint or for any other amount whatsoever.

16. This defendant denies breaching any legal duty owed to the plaintiff.

17. This defendant reserves the right to assert any affirmative defenses supported by the evidence. These defenses may include contributory negligence, assumption of the risk, failure to mitigate damages, sudden emergency and unavoidable accident. This defendant may also assert that the plaintiff's damages, if proved, were caused by an entity or person not under the control of this defendant.

18. Any allegations not expressly admitted are denied.

19. Trial by jury is demanded.

WHEREFORE, Defendant, Northern Management Services, Inc., prays that this Court dismiss the Complaint filed by Plaintiff and enter judgment in favor of this Defendant, allowing its attorney's fees and costs in this behalf expended.

**NORTHERN MANAGEMENT  
SERVICES, INC.**

By:   
Counsel

M. Scott Fell, Esquire  
VSB No.: 30443  
Lindsey D. Hunt, Esquire  
VSB No.: 82040  
KALBAUGH, PFUND & MESSERSMITH, PC  
2840 Electric Road, Suite 111  
Roanoke, Virginia 24018





Phone: (540) 776-3583

Fax: (540) 776-1542

**CERTIFICATE**

I hereby certify that a true and accurate copy of the foregoing Demurrer and Answer was mailed first class, postage pre-paid, on this 18 day of February, 2016 to D. Adam McKelvey, Esquire, Crandall & Katt, 366 Elm Avenue, S.W., Roanoke, Virginia 24016 and Macel H. Janoschka, Esquire, Frith, Anderson & Peake, P.C., Post Office Box 1240, Roanoke, Virginia 24006.



M. Scott Fell

Handwritten scribbles or marks.

81

White

FRITH  
ANDERSON  
& PEAKE<sup>PC</sup>

TELEPHONE 540.772.4600  
FACSIMILE 540.772.9167  
MJANOSCHKA@FAPLAWFIRM.COM  
DIRECT DIAL 540.725.3367

ATTORNEYS AT LAW

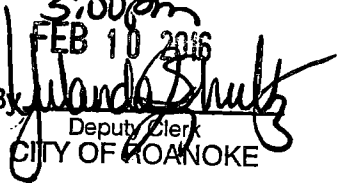
29 FRANKLIN ROAD, SW  
ROANOKE, VIRGINIA 24011  
P.O. BOX 1240  
ROANOKE, VIRGINIA 24006-1240

February 10, 2016

VIA HAND DELIVERY

Brenda S. Hamilton  
Roanoke City Circuit Court  
315 W. Church Avenue, SW.  
Roanoke, VA 24016

CIRCUIT COURT  
Received & Filed

3:00pm  
FEB 10 2016  
By   
Deputy Clerk  
CITY OF ROANOKE

Re: Caleb Quesenberry v. Southern Elevator Company, Inc. Northern Management Services, Inc. & L. Cruz  
Roanoke City Circuit Court Case No.: CL16-27

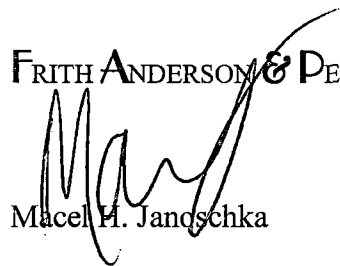
Dear Ms. Hamilton:

Enclosed for filing, please find Southern Elevator Company, Inc. and Louis Cruz's Responsive Pleading to Plaintiff's Complaint in the above-referenced matter. We are also enclosing an extra copy of the Responsive Pleading which we request you stamp "FILED" and return in the stamped, self-addressed envelope provided for your convenience. By copy of this correspondence to counsel of record, we are providing a copy of the same

We thank you for your time and assistance in this matter. Should you have any questions, please do not hesitate to contact our office.

Sincerely,

FRITH ANDERSON & PEAKE, PC

  
Macel H. Jandschka

/mae

Enclosures

c: D. Adam McKelvey, Esq. (via email and Hand Delivery)

10/10/16

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VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF ROANOKE

CALEB QUESENBERRY,

Plaintiff,

v.

SOUTHERN ELEVATOR  
COMPANY, INC.,

NORTHERN MANAGEMENT  
SERVICES, INC.,

and

L. CRUZ,

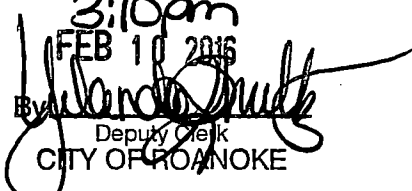
Defendants.

Case No. CL16-27

CIRCUIT COURT

Received & Filed

3:10pm  
FEB 10 2016

By   
Deputy Clerk  
CITY OF ROANOKE

**RESPONSIVE PLEADING**

COME NOW, the defendants, Southern Elevator Company, Inc. and L. Cruz (hereinafter "Louis Cruz"), by counsel, and file this their Responsive Pleading to the Plaintiff's Complaint, and in support thereof, state as follows:

**DEMURRER**

COMES NOW, the defendant, Louis Cruz, by counsel, and demurs to the claim for punitive damages contained in Plaintiff's Complaint, on the ground that the factual allegations, even when taken as true, are not sufficient to establish that Defendant Cruz's conduct was willful and wanton and/or was in conscious disregard of the rights and safety of others, and specifically, the Plaintiff.

Wherefore, based upon the foregoing, Louis Cruz, by counsel, respectfully requests that the plaintiff's claim for punitive damages be dismissed.

FRITH  
ANDERSON  
& PEAKE PC  
ATTORNEYS AT LAW  
ROANOKE, VIRGINIA



## ANSWER

COME NOW, the defendants, Southern Elevator Company, Inc. and Louis Cruz, by counsel, and file this their Answer in response to Plaintiff's Complaint herein, and in support thereof states as follows:

1. That in response to paragraph 1 of the Plaintiff's Complaint, Defendants Southern Elevator Company, Inc. and Louis Cruz are without sufficient knowledge to admit or deny the allegations contained in paragraph 1 of the Plaintiff's Complaint.

2. That in response to paragraph 2 of the Plaintiff's Complaint, Defendants Southern Elevator Company, Inc. and Louis Cruz are without sufficient knowledge to admit or deny the allegations contained in paragraph 2 of the Plaintiff's Complaint.

3. That Defendants Southern Elevator Company, Inc. and Louis Cruz admit the allegations contained in paragraph 3 of the Plaintiff's Complaint.

4. That Defendants Southern Elevator Company, Inc. and Louis Cruz admit the allegations contained in paragraph 4 of the Plaintiff's Complaint.

5. That Defendants Southern Elevator Company, Inc. and Louis Cruz deny the allegations contained in paragraph 5 of the Plaintiff's Complaint.

6. That Defendants Southern Elevator Company, Inc. and Louis Cruz admit the allegations contained in paragraph 6 of the Plaintiff's Complaint.

7. That Defendants Southern Elevator Company, Inc. and Louis Cruz admit the allegations contained in paragraph 7 of the Plaintiff's Complaint.

8. That with regard to the allegations contained within paragraph 8 of the Plaintiff's complaint, Defendants Southern Elevator Company, Inc. and Louis Cruz admit only that Louis





Cruz was dispatched to service the elevator on August 11, 2014. All other allegations contained in paragraph 8 of the Plaintiff's Complaint are denied.

9. That Defendants Southern Elevator Company, Inc. and Louis Cruz deny the allegations contained in paragraph 9 of the Plaintiff's Complaint.

10. With regard to the allegations contained in paragraph 10 of the Plaintiff's Complaint, Defendants Southern Elevator Company, Inc. and Louis Cruz admit only that Mr. Cruz ran tests on the elevator and, after finding no problems with the elevator, returned it to service. All other allegations contained in paragraph 10 of the Plaintiff's Complaint are denied.

11. That Defendants Southern Elevator Company, Inc. and Louis Cruz deny the allegations contained in paragraph 11 of the Plaintiff's Complaint.

12. That Defendants Southern Elevator Company, Inc. and Louis Cruz deny the allegations contained in paragraph 12 of the Plaintiff's Complaint.

13. That Defendants Southern Elevator Company, Inc. and Louis Cruz deny the allegations contained in paragraph 13 of the Plaintiff's Complaint.

14. That Defendants Southern Elevator Company, Inc. and Louis Cruz deny the allegations contained in paragraph 14 of the Plaintiff's Complaint.

15. That Defendants Southern Elevator Company, Inc. and Louis Cruz deny the allegations contained in paragraph 15 of the Plaintiff's Complaint.

16. The allegations in paragraph 16 are not directed to these defendants and thus a response to these allegations is not required by these defendants. To the extent a response is required, these defendants are without sufficient information to admit or deny the allegations in paragraph 16 and thus those allegations are denied.



17. The allegations in paragraph 17 are not directed to these defendants and thus a response to these allegations is not required by these defendants. To the extent a response is required, these defendants are without sufficient information to admit or deny the allegations in paragraph 17 and thus those allegations are denied.

18. That the allegations in paragraph 18 of the Plaintiff's Complaint are mere allegations of legal duties to which a response is not required. To the extent a response is required, the allegations are denied.

19. That Defendants Southern Elevator Company, Inc. and Louis Cruz deny the allegations contained in paragraph 19 of the Plaintiff's Complaint.

20. That Defendants Southern Elevator Company, Inc. and Louis Cruz deny the allegations contained in paragraph 20 of the Plaintiff's Complaint.

21. With regard to the allegations contained in paragraph 21 of the Plaintiff's Complaint, that Defendants Southern Elevator Company, Inc. and Louis Cruz admit that Southern Elevator was his employer at the time of the alleged accident and that Southern Elevator is vicariously liable for the conduct of Cruz with regard to the repair of the elevator. All other allegations contained within paragraph 21 of the Plaintiff's Complaint are denied.

22. That Defendants Southern Elevator Company, Inc. and Louis Cruz deny the allegations contained within paragraph 22 of the Plaintiff's Complaint and call upon the Plaintiff for strict proof of each and every item of alleged injury and damage.

23. That Defendants Southern Elevator Company, Inc. and Louis Cruz are without sufficient knowledge to admit or deny the allegations contained in paragraph 23 of the Plaintiff's Complaint. To the extent a response is required, the allegations are denied. Defendants expressly



reserve the right to rely on any of these affirmative defenses should they be supported by the evidence.

24. That Defendants Southern Elevator Company, Inc. and Louis Cruz deny being liable to the Plaintiff for the amount alleged in the Complaint or for any other amount whatsoever.

25. That Defendants Southern Elevator Company, Inc. and Louis Cruz deny breaching any legal duty owed to the Plaintiff.

26. That Defendants Southern Elevator Company, Inc. and Louis Cruz reserve the right to later assert any affirmative defenses supported by the evidence.

27. That the Complaint fails to state grounds sufficient for an award for punitive damages. The Demurrer set forth above is incorporated herein by reference.

28. That all allegations in the Complaint not expressly admitted herein are denied.

29. A trial by jury is demanded.

Respectfully submitted,

SOUTHERN ELEVATOR COMPANY, INC.  
AND LOUIS CRUZ

By: \_\_\_\_\_

Of Counsel

Sean C. Workowski (VSB No. 36120)  
Macel H. Janoschka (VSB No. 73050)  
FRITH ANDERSON & PEAKE, P.C.  
29 Franklin Road, S.W.  
Post Office Box 1240  
Roanoke, Virginia 24006-1240  
Phone: 540/772-4600  
Fax: 540/772-9167  
Email: [sworkowski@faplawfirm.com](mailto:sworkowski@faplawfirm.com)  
[mjanoschka@faplawfirm.com](mailto:mjanoschka@faplawfirm.com)  
*Counsel for Defendant Southern Elevator Company, Inc. and  
Louis Cruz*

FRITH  
ANDERSON  
& PEAKE PC  
ATTORNEYS AT LAW  
ROANOKE, VIRGINIA

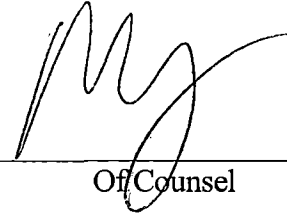


**CERTIFICATE OF SERVICE**

I hereby certify that on the 18<sup>th</sup> day of February, 2016, I served the foregoing Responsive

Pleading via email and hand delivery upon:

D. Adam McKelvey  
Crandall & Katt  
366 Elm Avenue, S.W.  
Roanoke, VA 24016  
*Counsel for Plaintiff*

  
\_\_\_\_\_  
Of Counsel

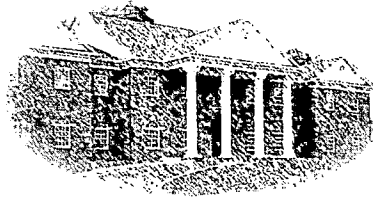
CS

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Daniel L. Crandall\*  
Peter A. Katt  
Danny D. Ashwell, Jr.  
Patrick T. Fennell\*\*  
D. Adam McKelvey  
William C. Pattisall\*\*\*  
John F. Pyle  
David J. Crandall

\* also admitted in Washington, DC  
\*\* also admitted in West Virginia  
\*\*\*also admitted in North Carolina



## Crandall & Katt

Attorneys & Counselors at Law  
366 Elm Avenue, S.W., Roanoke, Virginia 24016

cc 16-27

Telephone:  
540-342-2000  
Facsimile:  
540-345-3527  
email@crandalllaw.com

December 22, 2015

Roanoke City Circuit Court  
Civil Division, Clerk of Court  
PO Box 2610  
Roanoke, VA 24010

CIRCUIT COURT

Received & Filed

11:38 AM  
JAN - 6 2016

By *Corrine P. Lunsley*  
Deputy Clerk  
CITY OF ROANOKE

**Re: Caleb Quesenberry v. Southern Elevator Company, Inc., and  
Northern Management Services, Inc. and L. Cruz**

Dear Sir or Madam:

We represent plaintiff in the above-referenced matter. Please find enclosed for filing the Civil Action Cover Sheet, Original Complaint and service copies, and the check.

Regarding the enclosed copy of the Complaint, which is stamped "COPY", I request that this "COPY" be stamped with the date and time the original was filed with your office.

I enclose a self-addressed stamped envelope for your convenience in returning this copy and the recording receipt to me. I request the suit papers be prepared for service on the following persons. Please return the service copies to me for service through a private process server.

CT Corporation System  
Registered Agent for Northern Management Services, Inc.  
4701 Cox Road, Suite 285  
Glen Allen, VA 23060

CT Corporation System  
Registered Agent for Southern Elevator Company, Inc.  
4701 Cox Road, Suite 285  
Glen Allen, VA 23060

Very truly yours,

**CRANDALL & KATT**  
Attorneys & Counselors at Law

D. Adam McKelvey, Esq.

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CIRCUIT COURT  
Received & Filed  
11:38 AM  
JAN 06 2016  
By Connie P. Lunskey  
Deputy Clerk  
CITY OF ROANOKE

VIRGINIA: IN THE ROANOKE CITY CIRCUIT COURT

CALEB QUESENBERRY,

Plaintiff,

v.

SOUTHERN ELEVATOR  
COMPANY, INC.,

NORTHERN MANAGEMENT  
SERVICES, INC.,

&

L. CRUZ,

Defendants.

Case No. CL 16-27

PLAINTIFF'S FIRST INTERROGATORY TO DEFENDANTS

1. Please state the full legal name, home address and relationship to you of the  
"L. Cruz" listed in the Complaint.

Response:

Respectfully submitted,

CALEB QUESENBERRY

By: 

of Counsel

D. Adam McKelvey, Esquire (Va. State Bar No. 75174)  
CRANDALL & KATT  
Attorneys and Counselors at Law  
366 Elm Avenue, S.W.  
Roanoke, Virginia 24016  
Telephone: (540) 342-2000  
Facsimile: (540) 345-3527  
dmckelvey@crandalllaw.com

*Counsel for plaintiff*

3

VIRGINIA: IN THE ROANOKE CITY CIRCUIT COURT

CALEB QUESENBERRY,

Plaintiff,

v.

SOUTHERN ELEVATOR  
COMPANY, INC.,

NORTHERN MANAGEMENT  
SERVICES, INC.,

&

L. CRUZ,

Defendants.

Case No. CL 16-27

COMPLAINT

COMES NOW the plaintiff, CALEB QUESENBERRY ("plaintiff"), by counsel, and moves this Court for judgment against defendants SOUTHERN ELEVATOR COMPANY, INC. ("Southern"), NORTHERN MANAGEMENT SERVICES, INC. ("Northern"), and L. CRUZ ("Cruz") (collectively "defendants"), jointly and severally, on the grounds and in the amounts as hereinafter set forth:

1. At all relevant times hereto, the plaintiff was an employee that worked at the Poff Federal Building ("subject premises") in Roanoke, Virginia, and was a resident and citizen of the Commonwealth of Virginia.

2. At all relevant times hereto, Northern was a corporation organized and existing under the laws of the State of Idaho, with minimum contacts with the Commonwealth of Virginia.

Filed in the Clerk's Office this 6th day of Jan 2015  
Writ Tax \$ 25.00 206 Fee \$ 500  
Fee 290.00 428 Fee 500  
Ub Fee 400 Total: 229-200  
123 Fee 900 BRENDA S. HAMILTON, CLERK  
106 Fee 500  
170 Fee 700  
147 Fee 100  
Total Paid \$251.00 *Carrie P. Lynskey DC*



3. At all relevant times hereto, Southern was a corporation organized and existing under the laws of the State of North Carolina, with minimum contacts with the Commonwealth of Virginia.

4. At all relevant times hereto, L. Cruz was, upon information and belief, a citizen and resident of the Commonwealth of Virginia who was employed at all relevant times by Southern and acting within the scope and course of employment for the same, such that he received pay for the work that he did from Southern, and on the date of the subject incident, was working under the dispatch of, and for the business benefit of, Southern.

5. On or about August 11, 2014, the plaintiff was at the subject location and was using an elevator to move about the Poff Building, when said elevator malfunctioned, moved abruptly, and caused the plaintiff physical injury.

6. At the time and place aforesaid, Northern was under a contract with the General Services Administration, an agency of the federal government, to provide maintenance and repair services for the Poff Building, including the elevators.

7. At the time and place aforesaid, Northern had entered into a contract with Southern for the maintenance and repair of the elevators at the subject location.

8. On August 11, 2014 at approximately 10:50 a.m. the elevator on which the plaintiff was located malfunctioned, and Cruz was dispatched on behalf of Southern to service said elevator.

9. The fault code displayed at the 10:50 a.m. service call was a "QPRAM Comm. Failure/warn" code which is indicative of, among other things, a broken circuit board.





10. Cruz ran tests that checked for other failures, all of which were, upon information and belief, negative, and placed the elevator back in service.

11. At the time of the service call, based upon the troubleshooting guide for the subject elevator and/or Cruz's specialized training, education and experience, Cruz knew, or should have known, that the "QPRAM Comm. Failure/warn" code could indicate a broken circuit board.

12. In spite of the abovementioned knowledge, the presence of at least three other operable elevators in the vicinity and several others building wide, and knowledge that there was no way for anyone to test whether the circuit board was in fact broken on site, Cruz placed the elevator back in service without replacing the circuit board, or taking the elevator out of service.

13. At approximately 1:30 pm on the same date, the plaintiff entered the elevator, and while located therein and in transit, the elevator dropped at a high rate of speed for a considerable distance, actually and proximately causing the plaintiff's physical injuries.

14. Upon inspection of the elevator after the plaintiff's injury, the "QPRAM Comm. Failure/warn code" was displayed, and there was a tripped speed governor switch, which is indicative of a free fall. The combination of these two findings, and the subsequent testing of the circuit board, which should have been done as part of the first service call, establish that the circuit board was in fact broken.

15. The circuit board on this elevator controls and governs the speed of the elevator when traveling, among other things. The broken circuit board on the subject



elevator at the time of the plaintiff's injury is the actual and proximate cause of the elevator's malfunction, and the plaintiff's injuries.

16. At all relevant times hereto, Northern, in order to obtain greater profits from its abovementioned contract with the GSA, refused to authorize adequate elevator inspections, repairs and servicing such that problems like the one mentioned herein occurred. Northern is in the business of building maintenance and exercised such a significant degree of control over Southern and Cruz, and was thus their employer.

17. Northern, by contract with the GSA, was obligated to keep the elevator on which the plaintiff was injured in safe working order. Further, the plaintiff, as an employee of the federal government who worked in the Poff Building, is clearly a foreseeable beneficiary of the aforesaid contract.

18. The defendants had an actual, assumed and/or vicarious duty to use ordinary care in the maintenance and repair of the aforesaid elevator on which the plaintiff was injured.

19. Notwithstanding their aforesaid duties, the defendants negligently failed to maintain and repair the elevator after the first malfunction, for the reasons stated herein, incorporated by reference, actually and proximately causing the plaintiff's injuries.

20. The conduct of Cruz in spite of his specialized training and knowledge, constituted willful and wanton conduct such that punitive damages are appropriate, for the reasons stated herein, and specifically do to the fact that the troubleshooting guide suggested the replacement and testing of the circuit board as a solution to the fault code displayed prior to the plaintiff's injury.



21. Northern and Southern are vicariously liable for the conduct of Cruz, due to the fact that they are both his employers, for the reasons stated herein.

22. As an actual and proximate result of the negligent conduct alleged herein, the plaintiff was caused to suffer severe injury, pain, mental anguish, inconvenience, and to incur lost time from work as a result of the injuries, and medical expenses in an effort to be cured of the aforesaid injuries.

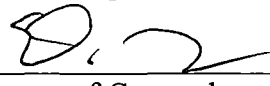
23. The plaintiff did not fail to mitigate his damages, did not assume the risk of injury, nor was he contributorily negligent.

24. A trial by jury is requested.

WHEREFORE the plaintiff, by counsel, moves this Court for judgment against the defendants, jointly and severally, in the amount of five hundred thousand dollars in compensatory damages, against L. Cruz in the amount of three hundred fifty thousand dollars in punitive damages, pre-judgment interest, post judgment interest, and costs expended.

Respectfully submitted,

**CALEB QUESENBERRY**

By:   
of Counsel

D. Adam McKelvey, Esquire (Va. State Bar No. 75174)  
CRANDALL & KATT  
Attorneys and Counselors at Law  
366 Elm Avenue, S.W.  
Roanoke, Virginia 24016  
Telephone: (540) 342-2000  
Facsimile: (540) 345-3527  
dmckelvey@crandalllaw.com

*Counsel for plaintiff*

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SERVICE OTHER THAN BY VIRGINIA SHERIFF  
COMMONWEALTH OF VIRGINIA  
VA. CODE §§ 8.01-293, 8.01-320, 8.01-325

Case No. 770CL16000027-00

Roanoke City

Circuit Court

Calib Risenbury

v. Southern Elevator Company Inc

CT Corporation System 9A Northern Meigsman Service 4701 Cox Rd Suite 285 Glen Allen VA 23060

is the name and address of the person upon whom service of the following is to be made:

☒ Summons and Complaint

☐

I, the undersigned, swear/affirm that

1. ☐ I am an official or an employee of an official who is authorized to serve process of the type described in the attached Proof of Service and my title and bailiwick are as follows:

or,

☒ I am a private process server (list name, address and telephone number below).

Damian Spradlin 1990 Alean Rd. Wirtz VA 24184 540-529-3592

2. I am not a party to, or otherwise interested in, the subject matter in controversy in this case.  
3. I am 18 years of age or older.  
4. I served, as shown below, the above-named person upon whom service of process was to be made with copies described above.

— Date and time of service: 1-20-16 8:45AM

— Place of service: 4701 Cox Rd Suite 285 Glen Allen VA

STREET ADDRESS, CITY AND STATE

— Method of service:

☒ Personal Service

☐ Not Found

☐ Being unable to make personal service, a copy was delivered in the following manner:

☐ Delivery to family member (not temporary sojourner or guest) age 16 or older at usual place of abode of person to be served after giving information of its purport.  
List name, age of recipient, and relation of recipient to party

☐ Posted on front door or such other door as appears to be the main entrance of usual place of abode (other authorized recipient not found).

☐ (Garnishment Summons Only, § 8.01-511) Copy mailed to judgment debtor after serving the garnishee on date of service below unless a different date of mailing is shown.

DATE OF MAILING

CIRCUIT COURT

Received & Filed

4:30pm  
JAN 25 2016

Deputy Clerk

CITY OF ROANOKE

1-20-16

DATE

SIGNATURE

Name (Print or Type) Damian Spradlin

State/Commonwealth of Virginia

☒ City ☐ County of Roanoke

Subscribed and sworn to/affirmed before me this day of , 20

by Damian Spradlin

Private Process Server

PRINT NAME OF SIGNATORY

TITLE

1/21/16

TAYLOR MACKENZIE REEDY

NOTARY PUBLIC

DATE Commonwealth of Virginia

Reg. #7595123

My Commission Expires April 30, 2018

NOTARY PUBLIC (My commission expires

Registration No.





## Service Authorization CT Corporation System

CT Corporation System ("CT") is registered agent for service of process for numerous corporations and similar entities. CT receives the process only in its capacity as a commercial registered agent. The individuals designated below are employees of CT Corporation System and in receiving the process, do so only on CT's behalf and in CT's capacity as registered agent.

**PLEASE NOTE:** The Code of Virginia §§ 13.1-634 provides in part:

"Registered office and registered agent.

A....

B. The sole duty of the registered agent is to forward to the corporation at its last known address any process, notice or demand that is served on the registered agent."

**As such, neither CT Corporation System, nor its individual employees designated below, have the duty or the ability to respond to any legal process, notice or demand that is served on CT's clients.**

The following natural persons are designated in the office of the registered agent upon whom any process, notice or demand may be served:

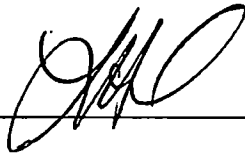
Lisa Uttech

Katie Bush

Teresa Brown

Jabrel Samuel

This authorization does not certify the receipt or acceptance of any specific process.



Lisa Uttech  
Corporate Operations Manager  
CT Corporation System

State of Virginia  
County of Henrico

This day personally appeared before me, Lisa Uttech, who name is signed above and who, being first duly sworn, upon her oath, state that the foregoing Affidavit is true to the best of her knowledge and belief.  
Subscribed and sworn before me this 14<sup>th</sup> day of December, 2015.



Notary Public

**Teresa Michelle Brown**  
Notary Public, Commonwealth of Virginia  
My Commission Expires August 31, 2017  
Commission ID #286304



COMMONWEALTH OF VIRGINIA



ROANOKE CITY CIRCUIT COURT  
Civil Division  
315 CHURCH AVENUE, SW  
ROANOKE VA 24016  
(540) 853-6702

CIRCUIT COURT

Received & Filed

4:30 PM  
JAN 25 2016

Deputy Clerk  
CITY OF ROANOKE

Virginia:

Proof of Service

In the ROANOKE CITY CIRCUIT COURT

Case number: 770CL16000027-00

Service number: 001

Service filed: January 06, 2016

Judge:

Served by: SPECIAL PROCESS SERVER

Style of case: CALEB QUESENBERRY vs SOUTHERN ELEVATOR COMPANY INC

Service on: CT CORPORATION SYSTEM

Attorney: MCKELVEY, D ADAM

REGISTERED AGENT FOR  
NORTHERN MANAGEMENT SERVICES

540-342-2000

4701 COX ROAD SUITE 285

GLEN ALLEN VA 23060

Proper attire required in Court Rooms

NO shorts

NO halters/tank tops

NO flip-flop shoes

NO t-shirts

NO hats

NO food, drinks or gum

NO cell phones in Courthouse

Instructions:

Returns shall be made hereon, showing service of Summons issued Wednesday, January 06, 2016 with a copy of the Complaint filed Wednesday, January 06, 2016 attached.

Hearing date :

Service issued: Wednesday, January 06, 2016

For Sheriff Use Only

MO NEW BRUNSWICK IN CONVENTION  
MO 1900-1901 ANNUAL REPORT  
MO STATE  
MO STATE  
MO STATE  
MO STATE  
MO STATE  
MO STATE

COMMONWEALTH OF VIRGINIA



ROANOKE CITY CIRCUIT COURT

Civil Division

315 CHURCH AVENUE, SW

ROANOKE VA 24016

(540) 853-6702

Summons

To: CT CORPORATION SYSTEM  
REGISTERED AGENT FOR  
NORTHERN MANAGEMENT SERVICES  
4701 COX ROAD SUITE 285  
GLEN ALLEN VA 23060

Case No. 770CL16000027-00

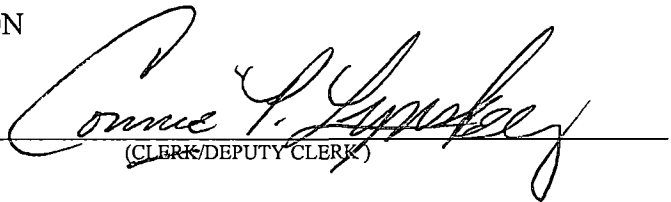
The party upon whom this summons and the attached complaint are served is hereby notified that unless within 21 days after such service, response is made by filing in the clerk's office of this court a pleading in writing, in proper legal form, the allegations and charges may be taken as admitted and the court may enter an order, judgment, or decree against such party either by default or after hearing evidence.

Appearance in person is not required by this summons.

Done in the name of the Commonwealth of Virginia on, Wednesday, January 06, 2016

Clerk of Court: BRENDA S. HAMILTON

by

  
(CLERK/DEPUTY CLERK)

Instructions:

Hearing Official:

Attorney's name: MCKELVEY, D ADAM  
540-342-2000

SDA

SERVICE OTHER THAN BY VIRGINIA SHERIFF  
COMMONWEALTH OF VIRGINIA  
VA. CODE §§ 8.01-293, 8.01-320, 8.01-325

Case No. 770CL600027-00

Roanoke City

Circuit Court

Calvin Rosenberg

v. Southern Elevator Company Inc

CT Corporation System RASa Southern Elevator Company Inc 4701 Cox Rd Suite 285 Glen Allen VA 23060

is the name and address of the person upon whom service of the following is to be made:

☒ Summons and Complaint

☐

I, the undersigned, swear/affirm that

1. ☐ I am an official or an employee of an official who is authorized to serve process of the type described in the attached Proof of Service and my title and bailiwick are as follows:

or,

☒ I am a private process server (list name, address and telephone number below).

Damian Spradlin 1990 Alean Rd. Wirtz VA 24184 540-629-3592

2. I am not a party to, or otherwise interested in, the subject matter in controversy in this case.  
3. I am 18 years of age or older.  
4. I served, as shown below, the above-named person upon whom service of process was to be made with copies described above.

— Date and time of service: 1-20-16 845AM

— Place of service: 4701 Cox Rd Suite 285 Glen Allen VA

STREET ADDRESS, CITY AND STATE

— Method of service:

<input checked="" type="checkbox"/> Personal Service	<input type="checkbox"/> Not Found
<input type="checkbox"/> Being unable to make personal service, a copy was delivered in the following manner:	
<input type="checkbox"/> Delivery to family member (not temporary sojourner or guest) age 16 or older at usual place of abode of person to be served after giving information of its purport. List name, age of recipient, and relation of recipient to party	
<input type="checkbox"/> Posted on front door or such other door as appears to be the main entrance of usual place of abode (other authorized recipient not found).	
<input type="checkbox"/> (Garnishment Summons Only, § 8.01-511) Copy mailed to judgment debtor after serving the garnishee on date of service below unless a different date of mailing is shown.	
DATE OF MAILING	

CIRCUIT COURT

Received & Filed

4:30 PM  
JAN 25 2016

Deputy Clerk

CITY OF ROANOKE

1-20-16

DATE

SIGNATURE

Name (Print or Type) Damian Spradlin

State/Commonwealth of Virginia ☒ City ☐ County of Roanoke

Subscribed and sworn to/affirmed before me this day of , 20

by Damian Spradlin

PRINT NAME OF SIGNER TAYLOR MACKENZIE REEDY

NOTARY PUBLIC

Commonwealth of Virginia

Reg. #7695123

My Commission Expires April 30, 2018

Private Process Server  
TITLE

NOTARY PUBLIC (My commission expires

Registration No.





## Service Authorization CT Corporation System

CT Corporation System ("CT") is registered agent for service of process for numerous corporations and similar entities. CT receives the process only in its capacity as a commercial registered agent. The individuals designated below are employees of CT Corporation System and in receiving the process, do so only on CT's behalf and in CT's capacity as registered agent.

**PLEASE NOTE:** The Code of Virginia §§ 13.1-634 provides in part:

"Registered office and registered agent.

A....

B. The sole duty of the registered agent is to forward to the corporation at its last known address any process, notice or demand that is served on the registered agent."

**As such, neither CT Corporation System, nor its individual employees designated below, have the duty or the ability to respond to any legal process, notice or demand that is served on CT's clients.**

The following natural persons are designated in the office of the registered agent upon whom any process, notice or demand may be served:

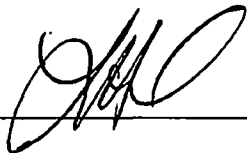
Lisa Uttech

Katie Bush

Teresa Brown

Jabrel Samuel

This authorization does not certify the receipt or acceptance of any specific process.



Lisa Uttech  
Corporate Operations Manager  
CT Corporation System

State of Virginia  
County of Henrico

This day personally appeared before me, Lisa Uttech, who name is signed above and who, being first duly sworn, upon her oath, state that the foregoing Affidavit is true to the best of her knowledge and belief.  
Subscribed and sworn before me this 14<sup>th</sup> day of December, 2015.



Notary Public

**Teresa Michelle Brown**  
Notary Public, Commonwealth of Virginia  
My Commission Expires August 31, 2017  
Commission ID #286304



COMMONWEALTH OF VIRGINIA



ROANOKE CITY CIRCUIT COURT  
Civil Division  
315 CHURCH AVENUE, SW  
ROANOKE VA 24016  
(540) 853-6702

CIRCUIT COURT

Received & Filed

JAN 25 2016

Deputy Clerk

CITY OF ROANOKE

Virginia:

Proof of Service

In the ROANOKE CITY CIRCUIT COURT

Case number: 770CL16000027-00

Service number: 002

Service filed: January 06, 2016

Judge:

Served by: SPECIAL PROCESS SERVER

Style of case: CALEB QUESENBERRY vs SOUTHERN ELEVATOR COMPANY INC

Service on: CT CORPORATION SYSTEM

Attorney: MCKELVEY, D ADAM

REGISTERED AGENT FOR  
SOUTHERN ELEVATOR COMPANY INC  
4701 COX ROAD SUITE 285  
GLEN ALLEN VA 23060

540-342-2000  
Proper attire required in Court Rooms

NO shorts  
NO halters/tank tops  
NO flip-flop shoes  
NO t-shirts  
NO hats  
NO food, drinks or gum  
NO cell phones in Courthouse

Instructions:

Returns shall be made hereon, showing service of Summons issued Wednesday, January 06, 2016 with a copy of the Complaint filed Wednesday, January 06, 2016 attached.

Hearing date :

Service issued: Wednesday, January 06, 2016

For Sheriff Use Only

proper attire required in Court Rooms  
NO shorts  
NO halterneck tops  
NO flip-flop shoes  
NO jewelry  
NO hats  
NO food, drink or gum  
NO cell phones in Courtrooms

COMMONWEALTH OF VIRGINIA



ROANOKE CITY CIRCUIT COURT

Civil Division

315 CHURCH AVENUE, SW

ROANOKE VA 24016

(540) 853-6702

Summons

To: CT CORPORATION SYSTEM  
REGISTERED AGENT FOR  
SOUTHERN ELEVATOR COMPANY INC  
4701 COX ROAD SUITE 285  
GLEN ALLEN VA 23060

Case No. 770CL16000027-00

The party upon whom this summons and the attached complaint are served is hereby notified that unless within 21 days after such service, response is made by filing in the clerk's office of this court a pleading in writing, in proper legal form, the allegations and charges may be taken as admitted and the court may enter an order, judgment, or decree against such party either by default or after hearing evidence.

Appearance in person is not required by this summons.

Done in the name of the Commonwealth of Virginia on, Wednesday, January 06, 2016

Clerk of Court: BRENDA S. HAMILTON

by

  
(CLERK/DEPUTY CLERK)

Instructions:

Hearing Official:

Attorney's name: MCKELVEY, D ADAM  
540-342-2000

SFA

S

COMMONWEALTH OF VIRGINIA



ROANOKE CITY CIRCUIT COURT

Civil Division  
315 CHURCH AVENUE, SW  
ROANOKE VA 24016  
(540) 853-6702

Virginia:

In the ROANOKE CITY CIRCUIT COURT

Proof of Service

Case number: 770CL16000027-00

Service number: 002

Service filed: January 06, 2016

Judge:

Served by: SPECIAL PROCESS SERVER

Style of case: CALEB QUESENBERRY vs SOUTHERN ELEVATOR COMPANY INC

Service on: CT CORPORATION SYSTEM

Attorney: MCKELVEY, D ADAM

REGISTERED AGENT FOR  
SOUTHERN ELEVATOR COMPANY INC  
4701 COX ROAD SUITE 285  
GLEN ALLEN VA 23060

540-342-2000  
Proper attire required in Court Rooms  
NO shorts  
NO halters/tank tops  
NO flip-flop shoes  
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NO hats  
NO food, drinks or gum  
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Hearing date :

Service issued: Wednesday, January 06, 2016

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For Sheriff Use Only





COMMONWEALTH OF VIRGINIA



ROANOKE CITY CIRCUIT COURT  
Civil Division  
315 CHURCH AVENUE, SW  
ROANOKE VA 24016  
(540) 853-6702

Summons

To: CT CORPORATION SYSTEM  
REGISTERED AGENT FOR  
SOUTHERN ELEVATOR COMPANY INC  
4701 COX ROAD SUITE 285  
GLEN ALLEN VA 23060

Case No. 770CL16000027-00

The party upon whom this summons and the attached complaint are served is hereby notified that unless within 21 days after such service, response is made by filing in the clerk's office of this court a pleading in writing, in proper legal form, the allegations and charges may be taken as admitted and the court may enter an order, judgment, or decree against such party either by default or after hearing evidence.

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Clerk of Court: BRENDA S. HAMILTON

by

  
(CLERK/DEPUTY CLERK)

Instructions:

Hearing Official:

Attorney's name: MCKELVEY, D ADAM  
540-342-2000



COMMONWEALTH OF VIRGINIA



ROANOKE CITY CIRCUIT COURT  
Civil Division  
315 CHURCH AVENUE, SW  
ROANOKE VA 24016  
(540) 853-6702

Proof of Service

Virginia:

In the ROANOKE CITY CIRCUIT COURT

Case number: 770CL16000027-00

Service number: 001

Service filed: January 06, 2016

Judge:

Served by: SPECIAL PROCESS SERVER

Style of case: CALEB QUESENBERRY vs SOUTHERN ELEVATOR COMPANY INC

Service on: CT CORPORATION SYSTEM  
REGISTERED AGENT FOR  
NORTHERN MANAGEMENT SERVICES  
4701 COX ROAD SUITE 285  
GLEN ALLEN VA 23060

Attorney: MCKELVEY, D ADAM  
540-342-2000

Proper attire required in Court Rooms  
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Instructions:

Returns shall be made hereon, showing service of Summons issued Wednesday, January 06, 2016 with a copy of the Complaint filed Wednesday, January 06, 2016 attached.

Hearing date :

Service issued: Wednesday, January 06, 2016

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For Sheriff Use Only



COMMONWEALTH OF VIRGINIA



ROANOKE CITY CIRCUIT COURT  
Civil Division  
315 CHURCH AVENUE, SW  
ROANOKE VA 24016  
(540) 853-6702

Summons

To: CT CORPORATION SYSTEM  
REGISTERED AGENT FOR  
NORTHERN MANAGEMENT SERVICES  
4701 COX ROAD SUITE 285  
GLEN ALLEN VA 23060

Case No. 770CL16000027-00

The party upon whom this summons and the attached complaint are served is hereby notified that unless within 21 days after such service, response is made by filing in the clerk's office of this court a pleading in writing, in proper legal form, the allegations and charges may be taken as admitted and the court may enter an order, judgment, or decree against such party either by default or after hearing evidence.

Appearance in person is not required by this summons.

Done in the name of the Commonwealth of Virginia on, Wednesday, January 06, 2016

Clerk of Court: BRENDA S. HAMILTON

by

  
(CLERK/DEPUTY CLERK)

Instructions:

Hearing Official:

Attorney's name: MCKELVEY, D ADAM  
540-342-2000



Case Number: CL 16-27

1<sup>st</sup> Hearing   2<sup>nd</sup> Hearing   3<sup>rd</sup> Hearing   4<sup>th</sup> Hearing   CODE

HEARING RESULT

				CO	CARRIED OVER (Evidence taken- No Order)
				C	CONTINUED (Requires future date)
				CG	CONTINUED GENERALLY
				DJ	DEFAULT JUDGMENT
				D	DENIED (Motions only)
				DIS	DISMISSED
				G	GRANTED (Motions only)
				HOP	HEARING ORDER PENDING (Evidence taken-Order Later)
				M	MISTRIAL
				NA	NO APPEARANCE (Hearing set/no appearance or cancellation)
				NS	NON SUIT
				R	RESOLVED (Hearing Settled-No Order)
				ROP	RESOLVED ORDER PENDING (Settled prior to hearing-Order Later)
				SET	SET FOR TRIAL (Praecipe filed-Case Set)
				SETL	SETTLED
				TOP	TRIAL ORDER PENDING (Evidence taken-Order Later)
				TRYD	TRIED
				UA	UNDER ADVISEMENT (Evidence taken-decision under advisement)
				WD	WITHDRAWN (Motion withdrawn -No Order)

CASE DISPOSITION

APPEAL/REMOVAL

ALL OTHER LAW

DIVORCE

ALL OTHER EQUITY

J & D APPEALS

SETTLED/DISMISSED

DEFAULT JUDGMENT

TRIAL JUDGE WITNESS

DEPOSITIONS

COMMISSIONER'S REPORT

TRANSFERRED

REMANDED

JURY TRIAL

DIS

DJ

TJW

DEP

RC

TRN

REM

TJ

Roanoke City

**Hearing Result Worksheet®**

07/01 msw/n:/civil/masterforms/hearing result worksheet.doc

3 YEAR RULE

P3Y

OTHER

OTH





COVER SHEET FOR FILING CIVIL ACTIONS  
COMMONWEALTH OF VIRGINIA

Case No.

CL 16-27  
(CLERK'S OFFICE USE ONLY)

Roanoke City

Circuit Court

Caleb Quesenberry

PLAINTIFF(S)

v./In re:

Southern Elevator Company, Inc.

DEFENDANT(S)

Northern Management Services, Inc., and L. Cruz

I, the undersigned ☐ plaintiff ☐ defendant ☒ attorney for ☒ plaintiff ☐ defendant hereby notify the Clerk of Court that I am filing the following civil action. (Please indicate by checking box that most closely identifies the claim being asserted or relief sought.)

GENERAL CIVIL

Subsequent Actions

- ☐ Claim Impleading Third Party Defendant  
☐ Monetary Damages  
☐ No Monetary Damages  
☐ Counterclaim  
☐ Monetary Damages  
☐ No Monetary Damages  
☐ Cross Claim  
☐ Interpleader  
☐ Reinstatement (other than divorce or driving privileges)  
☐ Removal of Case to Federal Court

Business & Contract

- ☐ Attachment  
☐ Confessed Judgment  
☐ Contract Action  
☐ Contract Specific Performance  
☐ Detinue  
☐ Garnishment

Property

- ☐ Annexation  
☐ Condemnation  
☐ Ejectment  
☐ Encumber/Sell Real Estate  
☐ Enforce Vendor's Lien  
☐ Escheatment  
☐ Establish Boundaries  
☐ Landlord/Tenant  
☐ Unlawful Detainer  
☐ Mechanics Lien  
☐ Partition  
☐ Quiet Title  
☐ Termination of Mineral Rights

Tort

- ☐ Asbestos Litigation  
☐ Compromise Settlement  
☐ Intentional Tort  
☐ Medical Malpractice  
☐ Motor Vehicle Tort  
☐ Product Liability  
☐ Wrongful Death  
☒ Other General Tort Liability

ADMINISTRATIVE LAW

- ☐ Appeal/Judicial Review of Decision of (select one)  
☐ ABC Board  
☐ Board of Zoning  
☐ Compensation Board  
☐ DMV License Suspension  
☐ Employee Grievance Decision  
☐ Employment Commission  
☐ Local Government  
☐ Marine Resources Commission  
☐ School Board  
☐ Voter Registration  
☐ Other Administrative Appeal

DOMESTIC/FAMILY

- ☐ Adoption  
☐ Adoption - Foreign  
☐ Adult Protection  
☐ Annulment  
☐ Annulment - Counterclaim/Responsive Pleading  
☐ Child Abuse and Neglect - Unfounded Complaint  
☐ Civil Contempt  
☐ Divorce (select one)  
☐ Complaint - Contested\*  
☐ Complaint - Uncontested\*  
☐ Counterclaim/Responsive Pleading  
☐ Reinstatement - Custody/Visitation/Support/Equitable Distribution  
☐ Separate Maintenance  
☐ Separate Maintenance Counterclaim

WRITS

- ☐ Certiorari  
☐ Habeas Corpus  
☐ Mandamus  
☐ Prohibition  
☐ Quo Warranto

PROBATE/WILLS AND TRUSTS

- ☐ Accounting  
☐ Aid and Guidance  
☐ Appointment (select one)  
☐ Guardian/Conservator  
☐ Standby Guardian/Conservator  
☐ Custodian/Successor Custodian (UTMA)  
☐ Trust (select one)  
☐ Impress/Declare  
☐ Reformation  
☐ Will (select one)  
☐ Construe  
☐ Contested

MISCELLANEOUS

- ☐ Appointment (select one)  
☐ Church Trustee  
☐ Conservator of Peace  
☐ Marriage Celebrant  
☐ Bond Forfeiture Appeal  
☐ Declaratory Judgment  
☐ Declare Death  
☐ Driving Privileges (select one)  
☐ Reinstatement pursuant to § 46.2-427  
☐ Restoration - Habitual Offender or 3<sup>rd</sup> Offense  
☐ Expungement  
☐ Firearms Rights - Restoration  
☐ Forfeiture of U.S. Currency  
☐ Freedom of Information  
☐ Injunction  
☐ Interdiction  
☐ Interrogatory  
☐ Judgment Lien-Bill to Enforce  
☐ Law Enforcement/Public Official Petition  
☐ Name Change  
☐ Referendum Elections  
☐ Sever Order  
☐ Taxes (select one)  
☐ Correct Erroneous State/Local  
☐ Delinquent  
☐ Vehicle Confiscation  
☐ Voting Rights - Restoration  
☐ Other (please specify)

CIRCUIT COURT  
Received & Filed  
11:38 AM  
JAN - 6 2016  
By *Conni P. Linsley*  
Deputy Clerk  
CITY OF ROANOKE

☒ Damages in the amount of \$ 850,000.00 are claimed.

December 22, 2015

DATE

D. Adam McKelvey

PRINT NAME

366 Elm Avenue, SW

ADDRESS/TELEPHONE NUMBER OF SIGNATOR

Roanoke, VA 24016

Dmckelvey@crandalllaw.com

EMAIL ADDRESS OF SIGNATOR (OPTIONAL)

☐ PLAINTIFF

☐ DEFENDANT

☒ ATTORNEY FOR

☒ PLAINTIFF

☐ DEFENDANT

\*"Contested" divorce means any of the following matters are in dispute: grounds of divorce, spousal support and maintenance, child custody and/or visitation, child support, property distribution or debt allocation. An "Uncontested" divorce is filed on no fault grounds and none of the above issues are in dispute.

